No. 2774

United States

Circuit Court of Appeals

For the Ninth Circuit.

LANCASHIRE SHIPPING COMPANY, LIMITED, a Corporation, Claimant of the British Steamer "SKIPTON CASTLE," Her Engines, Tackle, Apparel and Furniture, and All Persons Intervening for Their Interest Therein,

Appellant,

vs.

THE AMERICAN IMPORT COMPANY, a Corporation, TILLMAN & BENDEL, a Corporation, JAMES L. DE FREMERY and HENRI M. SUERMONDT, Copartners Doing Business Under the Firm Name of JAS. DE FREMERY & CO., THE APOLLINARIS COMPANY, LIMITED, a Corporation,

Appellees.

Apostles on Appeal.

Upon Appeal from the United States District Court for the Northern District of California, First Division.

Filmer Bros. Co. Print, 330 Jackson St., S. F., Cal.

INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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In the District Court of the United States, in and for the Northern District of California.

No. 15,156.

THE AMERICAN IMPORT COMPANY, a Corporation, TILLMAN & BENDEL, a Corporation, JAMES L. DE FREMERY and HENRI M. SUERMONDT, Copartners Doing Business Under the Firm Name of JAS. DE FREMERY & CO., THE APOLLINARIS CO., LTD., a Corporation,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," Her Engines, Tackle, Apparel and Furniture, and All Persons Intervening for Their Interest Therein,

Respondents,

LANCASHIRE SHIPPING COMPANY, LIMITED, a Corporation,

Claimant.

Praecipe for Apostles on Appeal.

To the Clerk of the Above-entitled Court:

Please prepare transcript of record in this cause to be filed in the office of the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, upon the appeal heretofore perfected in this court, and include in said transcript the following pleadings, proceedings and papers on file herein, to wit:

1. All those papers required by section 1 of paragraph 1 of rule IV of the Rules of Admiralty of the United States Circuit Court of Appeals for the Ninth Circuit.

2. All of the pleadings in said cause and the exhibits [1*] annexed thereto.

3. All the testimony and other proofs adduced in said cause, including the testimony taken at the trial; all depositions taken by either party and admitted in evidence, and all exhibits introduced by either party. Said exhibits to be sent up as original exhibits.

4. The opinion and decision of the Court.

5. The final decree and notice of appeal.

6. The assignment of errors.

IRA A. CAMPBELL,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Claimant and Appellant.

Service of the within Praecipe for Apostles on Appeal and receipt of a copy is hereby admitted this 12th day of Jan., 1916.

WILLIAM DENMAN,
DENMAN & ARNOLD,
Proctors for Libelants.

[Endorsed]: Filed Jan. 12, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [2]

*Page-number appearing at foot of page of original certified apostles on Appeal.

Statement of Clerk, U. S. District Court.

PARTIES.

Libelants: The American Import Company, a Corporation, Tillman & Bendel, a Corporation; James L. De Fremery and Henri M. Suermondt, Copartners Doing Business Under the Firm Name of Jas. De Fremery & Co., and the Apollinaris Co., Ltd., a Corporation.

Respondent: The British Steamer "Skipton Castle," Her Engines, Tackle, etc.

Claimant: Lancashire Shipping Company, Limited, a Corporation.

PROCTORS:

Libelant: William Denman, Esq., and Messrs. Denman & Arnold.

Respondent and Claimant: Ira A. Campbell, Esq., and McCutchen, Olney & Willard. **[3]**

PROCEEDINGS.

1911.

May 2. Filed Libel for Damage to Cargo.

Issued Monition for the attachment of British steamer "Skipton Castle," etc., which Monition was afterwards, on May 5th, 1911, returned and filed with the following return of the U. S. Marshal endorsed thereon:

"I hereby certify and return that I received the within Moni-

tion on the 2d day of May, 1911, and under instructions from the proctor herein, I hereby return the same without making a seizure of the British steamer 'Skipton Castle,' herein described, for the reason that an Admiralty Stipulation was entered into and filed with the Clerk of the United States District Court in and for said District.
San Francisco, Cal., May 5th, 1911.
C. T. ELLIOTT,
United States Marshal.
By Geo. H. Burnham,
Chief Office Deputy."

Filed Claim of Lancashire Shipping Company, Limited, a Corporation, to the British steamer "Skipton Castle," etc.

Filed Admiralty Stipulation for release of said British steamer "Skipton Castle," in accordance with stipulation of counsel this day filed herein, in the sum of $8,000.00. [4]

May 13. Filed Depositions of Lambert Page and J. Nelson Craven, taken on behalf of respondent, before Francis Krull, United States Commissioner.

August 12. Filed Answer of Lancashire Shipping Company, Limited.

1913.

March 3. Filed Depositions of S. N. Keame and Norman Watkins, taken on behalf of claimant, before Francis Krull, United States Commissioner.

1914.

April 2. Filed Deposition of Joseph S. Anderson, on behalf of libelant, taken before Francis Krull, Esq., United States Commissioner.

16. Filed Deposition of William Baird, taken on behalf of respondent, before Francis Krull, Esq., United States Commissioner.

This cause this day came on for hearing in the District Court of the United States for the Northern District of California, First Division, at San Francisco, before the Honorable M. T. Dooling, Judge, and after hearing, etc., the Court ordered that the cause stand submitted.

1915.

April 3. Filed Opinion, fixing the liability on the "Skipton Castle" and referring the matter to U. S. Commissioner to ascertain amount of damage.

Filed one volume of Testimony taken in open court.

October 20. Filed Stipulation waiving reference to U. S. Commissioner for report on damage sustained. [5]

October 20. Filed Stipulation as to damages sustained by Libelants in above-entitled action.

Filed Stipulation as to Interest on Stipulated damages.

25. Filed Final Decree.

December 29. Filed Notice of Appeal.

1916.

January 6. Filed Supersedeas Bond on Appeal, in the aggregate sum of $7,750.00 (Cost $250.00, Supersedeas $7,500.00).

12. Filed Praecipe for Apostles on Appeal.

March 17. Filed Assignment of Errors.

31. Filed Stipulation and Order as to Transmission of Original Exhibits on Appeal. [6]

In the District Court of the United States, in and for the Northern District of California.

IN ADMIRALTY—(No. 15,156).

THE AMERICAN IMPORT COMPANY, a Corporation, TILLMANN & BENDEL, a Corporation, JAMES L. DE FREMERY and HENRI M. SUERMONDT, Copartners Doing Business Under the Firm Name of JAS. DE FREMERY CO., THE APOLLINARIS CO., LTD., a Corporation,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," Her Engines, Tackle, Apparel and Furniture, and All Persons Intervening for Their Interest Therein,

Respondents.

Libel by Colibelants for Damage and Loss of Cargo.

To the Honorable J. J. DE HAVEN, Judge of the United States District Court, Northern District of California, in Admiralty:

The libel of the American Import Company, a corporation, Tillmann & Bendel, a corporation, James L. de Fremery and Henri M. Saermondt, copartners doing business under the firm name of Jas. de Fremery & Co., and the Apollinaris Co., Ltd., a corporation, importers of goods and merchants, against the British steamer "Skipton Castle," her engines, tackle, apparel and furniture, of which one J. Nel-

son Craven is master, and all persons intervening for their interest therein, in a cause of contract civil and maritime, alleges as follows:

I.

Claim No. 1 of the American Import Company.

The libelant, American Import Company, a corporation, is informed and believes, upon such information and belief alleges [7] that on or about the 17th day of December, 1910, H. C. Leutheuser shipped on board the said "Skipton Castle," then lying in the port of Antwerp, Belgium, to be carried and transported in the said steamer to the port of San Francisco, State of California, and to be delivered to said libelant at said port, the following-described goods, to wit: Seven hundred and forty-four (744) packages of merchandise, the said goods then being in good order and well conditioned and to be delivered to said libelant in like good order and condition, and the said captain received the said goods on board the said steamer and agreed to carry the same in the said manner and condition and as a common carrier thereof, to the said port of San Francisco, that the said steamer was a common carrier of goods by sea, and that she carried the said goods on the said voyage as a common carrier.

II.

That the said steamer did steam on the said voyage, via the Straits of Magellan, and that thereafter she did arrive at the port of San Francisco and did deliver to libelant the said cargo, but not in like good order and condition as when delivered to and

received by said steamer, but, on the contrary, in bad order and condition, seriously damaged by water, which damage was inflicted upon said cargo while in possession of said steamer on the said voyage.

III.

That the injury to the said merchandise inflicted on the said voyage amounts to more than Twenty-one Hundred and Eighty Dollars ($2,180), and that said libelant has been damaged in said sum by the said failure to carry out the said contract as hereinabove described.

IV.

That the said steamer "Skipton Castle" is now within the port of San Francisco, Northern District of California. [8]

V.

That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this court.

I.

Claim No. 2 of the American Import Company.

The libelant, American Import Company, a corporation, is informed and believes, and upon such information and belief alleges that on or about the 17th day of December, 1910, H. C. Leutheuser shipped on board the said "Skipton Castle," then lying in the port of Antwerp, Belgium, to be carried and transported in the said steamer to the port of San Pedro, California, and to be delivered to libelant at the said port, the following described goods, to

wit: Three hundred and ninety (390) packages of merchandise, the said goods then being in good order and well-conditioned and to be delivered to said libelant in like good order and condition, and the said captain received the said goods on board the said steamer and agreed to carry the same in the said manner and condition and as a common carrier thereof, to the said port of San Pedro; that the said steamer was a common carrier of goods by sea, and that she carried the said goods on the said voyage as a common carrier.

II.

That the said steamer did steam on the said voyage, via the Straits of Magellan, and that thereafter she did arrive at the port of San Francisco and did deliver to libelant the said cargo, but not in like good order and condition as when delivered to and received by said steamer, but, on the contrary, in bad order and condition, seriously damaged by water, which damage was inflicted upon said cargo while in possession of said steamer on the said voyage.

III.

That the injury to the said merchandise inflicted on [9] the said voyage amounts to more than Sixteen Hundred and Nineteen and 08/100 Dollars ($1,619.08), and that libelant has been damaged in the said sum by said failure to carry out the said contract as hereinabove described;

IV.

That the said steamer "Skipton Castle" is now

within the port of San Francisco, Northern District of California.

V.

That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this court.

I.

Claim of Tillmann & Bendel.

The libelant, Tillmann & Bendel, a corporation, is informed and believes and upon such information and belief alleges, that on or about the 17th day of December, 1910, Aachner Thermat Wasser Kaiser Brunnen Actien Desellschaft shipped on board the said "Skipton Castle," then lying in the port of Antwerp, Belgium, to be carried and transported in the said steamer to the port of San Francisco, California, and to be delivered to said libelant at the said port, the following described goods, to wit: Seventy-five (75) cases of mineral water, the said merchandise then being in good order and well-conditioned and to be delivered to said libelant in like good order and condition, and the said captain received the said goods on board the said steamer and agreed to carry the same in the said manner and condition and as a common carrier thereof, to the said port of San Francisco; that the said steamer was a common carrier of goods by sea, and that she carried the said goods on the said voyage as a common carrier.

II.

That the said steamer did steam on the said voy-

age, via the Straits of Magellan, and that thereafter she did arrive at [10] the port of San Francisco and did deliver to libelant the said cargo, but not in like good order and condition as when delivered to and received by said steamer, but, on the contrary, in bad order and condition, seriously damaged by water, which damage was inflicted upon said cargo while in possession of said steamer on the said voyage.

III.

That the injury to the said merchandise inflicted on the said voyage amounts to more than Two Hundred and Seventy-five Dollars ($275), and that said libelant has been damaged in said sum by said failure to carry out the said contract as hereinabove described.

IV.

That the said steamer "Skipton Castle" is now within the port of San Francisco, Northern District of California.

V.

That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this Court.

I.

Claim of James L. de Fremery and Henri M. Suermondt.

The libelants, James L. de Fremery and Henri M. Suermondt, copartners dong busniess under the firm name of Jas. de Fremery & Co., are informed and believe, and upon such information and belief

allege, that on or about the 17th day of December, 1910, Rene Robert shipped on board the said "Skipton Castle," then lying in the port of Antwerp, Belgium, to be carried and transported in the said steamer to the port of San Francisco, California, and to be delivered to said libelants at the said port, the following described goods, to wit: Three hundred and twelve (312) cases cases of Vichy Water, the said goods then being in good order and well conditioned and to be delivered to said libelants in like good order [11] and condition, and the said captain received the said goods on board the said steamer and agreed to carry the same in the said manner and condition and as a common carrier thereof, to the said port of San Francisco; that the said steamer was a common carrier of goods by sea, and that she carried the said goods on the said voyage as a common carrier.

II.

That the said steamer did steam on the said voyage, via. the Straits of Magellan, and that thereafter she did arrive at the port of San Francisco and did deliver to libelants the said cargo but not in like good order and condition as when delivered to and received by said steamer, but, on the contrary, in bad order and condition, seriously damaged by water, which damage was inflicted upon said cargo while in possession of said steamer on the said voyage.

III.

That the injury to said merchandise inflicted on the said voyage amounts to more than Six Hundred and Two and 16/100 Dollars ($602.16), and that libel-

ants have been damaged in the said sum by said failure to carry out the said contract as hereinabove set forth.

IV.

That the said steamer "Skipton Castle" is now within the port of San Francisco, Northern District of California.

V.

That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this court.

I.

The Claim of the Apollinaris Co., Ltd.

The libelant, the Apollinaris Co., Ltd., a corporation, [12] is informed and believes, and upon such information and belief alleges, that on or about the 17th day of December, 1910, the Apollinaris Co., Ltd., shipped on board the said "Skipton Castle," then lying in the port of Antwerp, Belgium, to be carried and transported in the said steamer to the port of San Francisco, California, and to be delivered to said libelant at the said port, the following described goods, to wit: Five hundred and fifty (550) cases of Apollinaris Water, Twenty-five (25) cases of Apenta Water, the said goods then being in good order and well-conditioned and to be delivered to said libelant in like good order and condition, and the said captain received the said goods on board the said steamer and agreed to carry the same in the said manner and condition and as a common carrier thereof, to the said port of San Francisco; that the said steamer was a common carrier of goods by sea, and

that she carried the said goods on the said voyage as a common carrier.

II.

That said steamer did steam on the said voyage, via. the straits of Magellan, and that thereafter she did arrive at the port of San Francisco and did deliver to said libelant said cargo, but not in like good order and condition as when delivered to and received by said steamer, but, on the contrary, the said cases of Apollinaris Water when delivered to said libelant at said port of San Francisco, were badly damaged by breakage and leakage of the said bottles, due to the bad stowage of the said cargo and the unseaworthiness of the said steamer, which damage was inflicted upon the said goods while in possession of said steamer on the said voyage.

III.

That the injury to the said merchandise inflicted on the said voyage amounts to more than Sixteen Hundred and Seventy-five and 68/100 ($1,675.68), and that said libelant has [13] been damaged in said sum by said failure to carry out the said contract as hereinabove described.

IV.

That the said steamer "Skipton Castle" is now within the port of San Francisco, Northern District of California.

V.

That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this court.

WHEREFORE libelants pray that process in due

form of law, according to the course of this court in causes of admiralty and maritime jurisdiction may issue against the said steamer, her engines, tackle, apparel and furniture, and that all persons claiming any interest therein may be cited to appear and answer all and singular the matters aforesaid, and that this Honorable Court will be pleased to decree the payment of damages and each claim as aforesaid, with costs, and that the said steamer may be condemned and sold to pay the same, and that the libelants may have such other and further relief in the premises as in law and justice they may be entitled to.

WILLIAM DENMAN,
Proctor for Libelants.

Verification of the above libel is hereby waived.

PAGE, McCUTCHEN, KNIGHT & OLNEY,
Proctors for Owner and Claimant of the said Steamer "Skipton Castle."

[Endorsed]: Filed May 2, 1911. Jas. P. Brown, Clerk. By M. T. Scott, Deputy Clerk. [14]

In the District Court of the United States, in and for the Northern District of California.

(No. 15,156.)

THE AMERICAN IMPORT COMPANY, a Corporation, TILLMANN & BENDEL, a Corporation, JAMES L. DE FREMERY and HENRI M. SUERMONDT, Copartners Doing Business Under the Firm Name of JAS. DE FREMERY & CO., THE APOLLINARIS CO., LTD., a Corporation,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," Her Engines, Tackle, Apparel and Furniture, and All Persons Intervening for Their Interest Therein,

Respondents.

Answer of Lancashire Shipping Company, Limited.

The answer of the Lancashire Shipping Company, Limited, a corporation, claimant of said respondent "Skipton Castle," to the libel of the American Import Company, one of the libelants herein, admits, denies and alleges as follows, to wit:

I.

Claimant admits that libelant, American Import Company, is a corporation, and admits that, on or about the 17th day of December, 1910, H. C. Leutheuser shipped on board said steamship "Skipton Castle," then lying in the port of Antwerp, Belgium, to be carried and transported in said steamship to

the port of San Francisco, State of California, and to be delivered to said [15] libelant at said port, seven hundred and forty-four (744) packages of merchandise; claimant has no knowledge or information as to the actual condition of the contents of said packages, and upon that ground denies that the contents of said packages were then in good order and condition, but admits that the exterior of said packages appeared to be in apparent good order and condition, and admits that said packages were to be delivered to said libelant in like apparent good order and condition; admits that said captain received said goods on board said steamer and agreed to carry them, in said apparent good order and condition and as a common carrier thereof, to said port of San Francisco; admits that said steamer was a common carrier of goods by sea, and that she carried the said goods on said voyage as a common carrier.

II.

Claimant admits that said steamer steamed on said voyage via the Straits of Magellan, and that thereafter she arrived at the port of San Francisco and delivered said cargo to libelant; but denies that all of said goods were not delivered in as good order and condition as when received by said steamer, and denies that all of said goods were delivered in bad order and condition; but admits that a portion of said goods were not delivered in apparent good order and condition as when received by said steamship, and that on the contrary a portion of said goods were delivered in bad order and condition; admits that said damage was inflicted upon said cargo while in the

possession of said steamer on said voyage; claimant denies, however, that said goods were damages by water. [16]

III.

Claimant alleges that it has no knowledge or information as to the extent of said damage to said merchandise, and placing its denial upon that ground, denies that the damage to said merchandise amounts to more than the sum of Two Thousand One Hundred and Eighty ($2,180) Dollars. Claimant further denies, upon the same grounds, that said libelant has been damaged in said sum, or any sum, by the failure of said vessel to carry out said contract thereinbefore described in said libel, and for that reason requires that strict proof be made of said damage and of each and every item thereof.

IV.

Claimant admits that the steamer "Skipton Castle" was within the port of San Francisco, in the Northern District of California, on the date of the filing of said libel.

V.

Claimant denies that, all and singular, the premises of said libel are true, but admits that they are within the admiralty and maritime jurisdiction of the United States and this Honorable Court.

VI.

Further answering unto the said libel, claimant alleges:

That, at the time of the shipment of said goods on board said steamship "Skipton Castle," at the port of Antwerp, Belgium, on or about the 17th day of

December, 1910, for transportation to the port of San Francisco, said packages were shipped under bills of lading which acknowledged the receipt of said goods in apparent good order and condition, and stipulated that the quality, [17] contents and value of said packages were unknown.

That by the terms and conditions of said bills of lading under which said goods were shipped, it was further provided, among other things, that the ship "should not be liable for loss or damage occasioned by the act of God, * * * sweating, * * * decay, or the indirect causes thereof, contact with, or smell or evaporation from, other goods, * * * injury to wrappers, however caused, * * * heat * * * at any time or in any place, * * * or any other perils of the sea; the negligence, default or error in judgment of the master, pilot, mariners, engineers, stevedores or other persons employed in or about the ship."

That, at the time of the receipt of said goods on board said steamship, and at the time of the sailing of said steamship upon said voyage, claimant and its officers and agents had exercised due diligence to make said steamship in all respects seaworthy, and to properly man, equip and supply her; that said goods were properly loaded and stowed, and that during all the times of said loading and upon said voyage were properly protected, cared for and ventilated; that claimant is informed and believes, and upon such information and belief alleges, that said damage to said goods was due to decay and the indirect causes thereof resulting from the inherent

vice of said goods, in that the willow of which they were made was green at the time of shipment, and, thereby, subject to such decay during the course of said voyage; that if said damage resulted from any other causes than said inherent vice, such decay was caused by the heat extraneous to said goods, and the natural heat of the compartment in which said goods were stowed, as is customarily found in the cargo compartments of all steel cargo-carrying steamships, and to sweat and the evaporation from other goods; that a large part of said damage [18] was to the wrappers in which said goods were packed, the exact extent of which is unknown, and of which claimant demands that strict proof be made; but all such decay, heat, sweat, evaporation from other goods, and damage to said wrappers, was entirely without any fault or negligence on the part of said steamship, her master, officers or crew, or this claimant or any of the agents or employees thereof, and that all of said causes of such damage are within the exemptions contained in said bills of lading, to which bills of lading reference is hereby made, and the same are hereby made a part of this answer with the same force and effect as though they were herein set forth at length.

VII.

That claimant is a corporation duly organized and existing under and by virtue of the laws of the Kingdom of Great Britain.

VIII.

That all and singular the premises set forth in this answer are true and within the admiralty and maritime jurisdiction of the United States and this Honorable Court.

Further answering unto the allegations of the second claim of said American Import Company, claimant admits, denies and alleges as follows:

I.

Claimant admits that, on or about the 17th day of December, 1910, H. C. Leutheuser shipped on board the said "Skipton Castle," then lying in the port of Antwerp, Belgium, to be carried and transported in the said steamer to the port of San Pedro, California, [19] to be delivered to libelant at the said port, the following described goods, to wit, three hundred and ninety (390) packages of merchandise; claimant has no knowledge or information as to the actual condition of the contents of said packages, and upon that ground denies that the contents of said packages were then in good order and condition; but admits that the exterior of said packages appeared to be in apparent good order and condition; admits that said captain received the goods on board the said steamer and agreed to carry the same, in said apparent good order and condition and as a common carrier thereof, to said port of San Pedro; that said steamer was a common carrier of goods by sea, and that she carried said goods on said voyage as a common carrier.

II.

Claimant admits that the said steamer steamed on said voyage, via the Straits of Magellan, and that thereafter she arrived at the port of San Pedro and delivered to libelant the said cargo; but denies that all of said goods were not delivered in as goods order and condition as when received by the said steamer, and denies that all of said goods were delivered in

bad order and condition; admits that said damage was inflicted upon said cargo while in the possession of said steamer on said voyage; claimant denies, however, that said goods were damaged by water.

III.

Claimant alleges that it has no knowledge or information as to the extent of said damage to said merchandise and, placing its denial upon that ground, denies that the damage to said merchandise amounts to more than One Thousand Six Hundred and Nineteen and 8/100 ($1,619.08) Dollars; claimant further denies, upon the same grounds, that said libelant has been damaged in said sum, or any sum, by the failure of said vessel to carry out [20] said contract thereinbefore described in said libel, and for that reason requires that strict proof be made of said damage and each and every item thereof.

IV.

Claimant admits that the steamer "Skipton Castle" was within the port of San Francisco, in the Northern District of California, on the date of the filing of said libel.

V.

Claimant denies that all and singular the premises of said libel are true, but admits that they are within the admiralty and maritime jurisdiction of the United States and this Honorable Court.

VI.

Further answering unto the said libel, claimant alleges:

That, at the time of the shipment of said goods on board said steamship "Skipton Castle" at the port of

Antwerp, Belgium, on or about the 17th day of December, 1910, for transportation to the port of San Pedro, said packages were shipped under bills of lading which acknowledged the receipt of said goods in apparent good order and condition, and stipulated that the quality, contents and value of said packages were unknown.

That, by the terms and conditions of said bills of lading under which said goods were shipped, it was further provided, among other things, that the ship "should not be liable for loss or damage occasioned by the act of God, * * * sweating, * * * decay, or the indirect causes thereof, contact with, or smell or evaporation from, other goods, * * * injury to wrappers, however caused, * * * heat * * * at any time or in any place, * * * or any other perils of the [21] sea; the negligence, default or error in judgment of the master, pilot, mariners, engineers, stevedores, or other persons employed in or about the ship."

That, at the time of the receipt of said goods on board said steamship, and at the time of the sailing of said steamship upon said voyage, claimant and its officers and agents had exercised due diligence to make said steamship in all respects seaworthy, and to properly man, equip and supply her; that said goods were properly loaded and upon said voyage were properly protected, cared for and ventilated; that claimant is informed and *believe,* and upon such information and belief alleges, that said damage to said goods was due to decay and the indirect causes thereof resulting from the inherent vice of said

goods, in that the willow of which they were made was green at the time of shipment and, thereby, subject to such decay during the course of said voyage; that if said damage resulted from any other causes than said inherent vice, such decay was caused by the heat extraneous to said goods, and the natural heat of the compartment in which said goods were stowed, as is customarily found in the cargo compartments of all steel cargo-carrying steamships, and to sweat and the evaporation from other goods; that a large part of said damage was to the wrappers in which said goods were packed, the exact extent of which is unknown, and of which claimant demands that strict proof be made; but all such decay, heat, sweat, evaporation from other goods, and damage to said wrappers, was entirely without any fault or negligence on the part of said steamship, her master, officers or crew, or this claimant or any of the agents or employees thereof, and that all of said causes of such damage are within the exemptions contained in said bills of lading, [22] to which bills of lading reference is hereby made, and the same are hereby made a part of this answer with the same force and effect as though they were herein set forth at length.

VII.

That claimant is a corporation duly organized and existing under and by virtue of the laws of the Kingdom of Great Britain.

VIII.

That all and singular the premises set forth in this answer are true and within the admiralty and maritime jurisdiction of the United States and this Honorable Court.

Further answering unto the libel of Tillman & Bendel, a corporation, one of the libelants herein, claimant admits, denies and alleges as follows:

I.

Claimant admits that libelant Tillman & Bendel is a corporation, and that on or about the 17th day of December, 1910, Aachner Thermal Wasser Kaiser Brunnen Atkien Gesellschaft shipped on board the said "Skipton Castle," then lying in the port of Antwerp, Belgium, to be carried and transported in said steamer to the port of San Francisco, and to be delivered to said libelant at the said port, the following described goods, to wit, seventy-five (75) cases of mineral water; claimant has no knowledge or information as to the actual condition of the contents of said cases of mineral water, and upon that ground denies that the contents of said cases were in good order and well-conditioned, but admits that the exterior of said packages appeared to be in good order and condition; admits that [23] said packages were to be delivered to said libelant in like apparent good order and condition; admits that the captain received the said goods on board the said steamer and agreed to carry the same in said apparent good order and condition, as a common carrier thereof, to said port of San Francisco; admits that the said steamer was a common carrier of goods by sea, and that she carried the said goods on said voyage as a common carrier.

II.

Claimant admits that said steamer did steam on said voyage, via the Straits of Magellan, and that

thereafter she did arrive at the port of San Francisco and did deliver to libelant the said cargo, but denies that all of said cargo was not delivered in as good order and condition as when received by said steamer, and denies that all of said cargo was delivered in bad order and condition; but admits that a portion of said cargo was delivered in bad order and condition, and that a portion of said damage to said cargo occurred while in the possession of said steamer on said voyage; denies that said damage was caused by water, other than the water contained in said bottles, as hereinafter set forth.

III.

Claimant alleges that it has no knowledge or information as to the extent of said damage to said merchandise and, placing its denial upon that ground, denies that the said damage to said merchandise amounted to more than the sum of Two Hundred and Seventy-five ($275) Dollars; claimant further [24] denies, upon the same ground, that said libelant has been damaged in the said sum, or any sum, by the failure of said vessel to carry out the said contract thereinbefore described in said libel, and for that reason requires that strict proof be made of said damage and each and every item thereof.

IV.

Claimant admits that the steamer "Skipton Castle" was within the port of San Francisco, in the Northern District of California, on the date of the filing of said libel.

V.

Claimant denies that, all and singular, the premises

of said libel are true, but admits that they are within the admiralty and maritime jurisdiction of the United States and this Honorable Court.

VI.

Further answering unto said libel, claimant alleges:

That at the time of the shipment of said mineral water on board said steamship "Skipton Castle" at the port of Antwerp, Belgium, on or about the 17th day of December, 1910, for transportation to the port of San Francisco, said cases of mineral water were shipped under bills of lading which acknowledged the receipt of said mineral water in apparent good order and condition, and stipulated that the quality, contents and value of said packages were unknown; that by the terms and conditions of said bill of lading under which said goods were shipped, it was provided further, among other things, that the said ship " should not be liable for loss or damage occasioned by the act of God, * * * insufficiency of packages in size, strength, or otherwise, leakage, breakage, wastage, * * * [25] or the indirect causes thereof, injury to wrappers, however caused, * * * heat * * * at any time or place * * * or any other perils of the sea * * * the negligence, default or error in judgment of the master, pilot, mariners, engineers, stevedores or other persons employed in or about the ship."

That the time of the receipt of said mineral water on board said steamship and at the time of the sailing of said steamship upon said voyage, claimant and its officers and agents had exercised due dili-

gence to make said steamship in all respects seaworthy, and to properly man, equip and supply her; that said mineral water was properly loaded and stowed and was, during all the times of said loading and upon said voyage, properly protected, cared for and ventilated; that plaintiff is informed and believes and, upon such information and belief alleges, that said mineral water was placed in bottles at low temperature, which caused said mineral water to absorb the gas with which it was charged, and the bottles in which the said mineral water was contained were not of sufficient strength and shape to withstand the pressure upon said bottles by said gas, upon the same being thrown off by said mineral water when said bottles were subjected to the natural and usual heat of the cargo compartment of said vessel in which said bottles were stowed, and that, by reason thereof, many of said bottles burst and the contents thereof—said mineral water—was precipitated upon said cases and the wrappers of said bottles, damaging the same; that if said damage resulted from any other than the aforesaid causes, it was due to leakage and wastage of said mineral water, breakage of bottles, and heat extraneous to said bottles, and perils of the sea, to wit, the natural heat of the cargo compartment **[26]** of said vessel in which said mineral water was stowed; and that all such leakage and wastage of said mineral water, and breakage of said bottles, and heat, and damage to said wrappers and labels on said bottles, was entirely without any fault or negligence on the part of said steamship or her master, officers or crew, or this

claimant, or any of the agents or employees thereof; and that all of said causes of damage are within the exemption contained in said bill of lading, to which bill of lading reference is hereby made, and the same is hereby made a part of this answer with the same force and effect as though the same were herein set forth at length.

VII.

That claimant is a corporation duly organized and existing under and by virtue of the laws of the Kingdom of Great Britain.

VIII.

That all and singular the premises set forth in this answer are true and within the admiralty and maritime jurisdiction of the United States and this Honorable Court.

Further answering unto the allegations of the libel of James L. de Fremery and Henri M. Suermondt, claimant, admits, denies and alleges as follows, to wit:

I.

Claimant admits that the libelants, James L. de Fremery and Henri M. Suermondt are copartners doing business under the firm name of James de Fremery & Co., and that, on or about the 17th day of December, 1910, Rene Robert shipped [27] on board the said "Skipton Castle," then lying in the port of Antwerp, Belgium, to be carried and transported in the said steamer to the port of San Francisco, and to be delivered to said libelants at the said port, the following described goods, to wit: three hundred and twelve (312) cases of Vichy Water;

claimant has no knowledge or information as to the actual condition of the contents of said cases of Vichy Water, and upon that ground denies that the contents of said cases were in good order and well-conditioned; but admits that the exterior of said packages appeared to be in good order and condition; admits that said packages were to be delivered to said libelant in like apparent good order and condition; admits that the captain received said goods on board the said steamer, and agreed to carry the same, in said apparent good order and condition and as a common carrier thereof, to the port of San Francisco; admits that the said steamer was a common carrier of goods by sea and that she carried the said goods on said voyage as a common carrier.

II.

Claimant admits that said steamer did sail on said voyage, via the Straits of Magellan, and that thereafter she did arrive at the port of San Francisco, and did deliver to libelants the said cargo, but denies that all of said cargo was not delivered in as good order and condition as when received by said steamer; denies that all of said cargo was delivered in bad order and condition, but admits that a portion of said cargo was delivered in bad order and condition, and that a portion of said damage to said cargo occurred while in possession of said steamer on said voyage; denies that [28] said damage was caused by water other than the water contained in said bottles, as hereinafter set forth.

II.

Claimant alleges that it has no knowledge or in-

formation as to the extent of said damage to said merchandise, and placing its denial upon that ground, denies that said damage to said merchandise amounted to more than the sum of Six Hundred and Twelve and 16/100 ($612.16) Dollars; claimant further denies, upon the same ground, that said libelants have been damaged in the said sum, or any sum, by the failure of said vessel to carry out the said contract thereinbefore described, and for that reason requires that strict proof be made of said damage and each and every item thereof.

IV.

Claimant admits that the steamer "Skipton Castle" was within the port of San Francisco, in the Northern District of California, on the date of the filing of said libel.

V.

Claimant denies that, all and singular, the premises of said libel are true, but admits that they are within the admiralty and maritime jurisdiction of the United States and this Honorable Court.

VI.

Further answering unto the said libel, claimant alleges:

That at the time of the shipment of said Vichy Water, on board said steamship "Skipton Castle," at the port of Antwerp, [29] Belgium, on or about the 17th day of December, 1910, for transportation to the port of San Francisco; said cases of Vichy Water were shipped under a bill of lading which acknowledged the receipt of said packages in apparent good order and condition, and stipulated

that the quality, contents and value of said packages were unknown; that by the terms and conditions of said bill of lading under which said goods were shipped, it was further provided, among other things, that the said ship "should not be liable for loss or damage occasioned by the act of God, * * * insufficiency of packages in size, strength, or otherwise; leakage, breakage, wastage, * * * or the indirect causes thereof, injury to wrappers, however causes, * * * heat * * * at any time or place * * * or any other perils of the sea, * * * the negligence, default or error in judgment of the master, pilot, mariners, engineers, stevedores or other persons employed in or about the ship."

That at the time of the receipt of said Vichy Water on board said steamship, and at the time of the sailing of said steamship on said voyage, claimant and its officers and agents had exercised due diligence to make said steamship in all respects seaworthy, and to properly man, equip and supply her, and that said Vichy Water was properly loaded and stowed and was, during all the times of said loading and upon said voyage, properly protected, cared for and ventilated; that plaintiff is informed and believes and, upon such information and belief alleges, that said Vichy Water was placed in botles at low temperature, which caused said Vichy Water to absorb the gas with which it was charged and the bottles in which the said Vichy Water was contained were not of sufficient strength and shape to withstand the pressure upon said bottles by said gas, upon the same

being thrown off by said mineral water when said bottles were [30] subjected to the natural and usual heat of the cargo compartment of said vessel in which said bottles were stowed, and that, by reason thereof, many of said botles burst and the contents thereof—said Vichy Water—*was* precipitated upon said cases and the wrappers of said bottles, damaging the same; that if said damage resulted from any other than the aforesaid causes, it was due to leakage and wastage of said mineral water, breakage of bottles, and heat extraneous to said bottles, and perils of the sea, to wit, the natural heat of the cargo compartment of said vessel in which said Vichy Water was stowed; and that all such leakage and wastage of said Vichy Water, and breakage of said bottles, and heat, and damage to said wrappers and labels on said bottles, *was* entirely without any fault or negligence on the part of said steamship or her master, officers or crew or this claimant, or of any of the agents, or employees thereof; and that all of said causes or damage are within the exceptions contained in said bill of lading, to which bill of lading reference is hereby made, and the same is hereby made a part of this answer with the same force and effect as though the same were herein set forth at length.

VII.

That claimant is a corporation duly organized and existing under and by virtue of the laws of the Kingdom of Great Britain.

VIII.

That all and singular the premises set forth in this

answer are true and within the admiralty and maritime jurisdiction of the United States and this Honorable Court. [31]

Further answering unto the libel of The Apollinaris Co., Ltd., a corporation, one of the libelants herein, claimant admits, denies and alleges as follows, to wit:

I.

Claimant admits that libelant, The Apollinaris Co., Ltd., is a corporation, and that on or about the 17th day of December, 1910, The Apollinaris Co., Ltd., shipped on board the said "Skipton Castle," then lying at the port of Antwerp, Belgium, to be carried and transported in the said steamer to the port of San Francisco, California, and to be delivered to libelant at the said port, the following described goods, to wit, five hundred and fifty (550) cases of Apollinaris Water and twenty-five (25) cases of Apenta Water; claimant has no knowledge or information as to the actual condition of the contents of said cases of water, and upon that ground denies that the contents of said cases were in good order and well *cindition,* but admits that the exterior of said cases appeared to be in good order and condition; admits that said cases were to be delivered to said libelant in like apparent good order and condition; admits that the captain received the said goods on board the said steamer and agreed to carry the same, in said apparent good order and condition, and as a common carrier thereof, to said port of San Francisco; admits that the said steamer was a common carrier of goods by sea, and that she carried the

said goods on said voyage as a common carrier.

II.

Claimant admits that said steamer did sail on said voyage, via the Straits of Magellan, and that thereafter [32] she *die* arrive at the port of San Francisco, and did deliver to libelant said cargo, but denies that all of said cargo was not delivered in as good order and condition as when received by said steamer, and denies that all of said cases of Apollinaris Water were delivered to said libelant at the port of San Francisco, damaged by breakage and leakage of said bottles; but admits that a portion of said cases of Apollinaris Water were delivered to said libelant at said port of San Francisco, damaged by breakage and leakage of said bottles, and that a portion of said damage was inflicted upon said goods while in the possession of said steamer on said voyage; claimant denies that said damage by breakage and leakage, or leakage, or otherwise, was due to bad stowage of said cargo, and the unseaworthiness, or unseaworthiness, of said steamer.

III.

Claimant alleges that it has no knowledge or information as to extent of said damage to said merchandise and, placing its denial upon that ground, denies that the said damage to said merchandise amounted to more than the sum of One Thousand Six Hundred and Seventy-five and 68/100 ($1,675.-68) Dollars; claimant further denies, upon the same ground, that said libelant has been damaged in the said sum, or any sum, by the failure of said vessel to carry out the said contract thereinbefore described

in said libel, and for that reason required that strict poof be made of said damage and each and every item thereof.

IV.

Claimant admits that the steamer "Skipton Castle," was within the port of San Francisco, in the Northern District of [33] California, on the date of the filing of said libel.

V.

Claimant denies that, all and singular, the premises of said libel are true, but admits that they are within the admiralty and maritime jurisdiction of the United States and this Honorable Court.

VI.

Further answering unto the said libel, claimant alleges:

That at the time of the shipment of said Apollinaris Water on board said steamship "Skipton Castle," at the port of Antwerp, Belgium, on or about the 17th day of December, 1910, for transportation to the port of San Francisco, said cases of Apollinaris Water were shipped under a bill of lading which acknowledged the receipt of said packages in apparent good order and condition, and stipulated that the quality, contents and value of said packages were unknown; that by the terms and conditions of said bill of lading under which said goods were shipped, it was further provided, among other things, that the said ship "should not be liable for loss or damage occasioned by the act of God, * * * insufficiency of packages in size, strength, or otherwise; leakage, breakage, wastage, * * * or the indirect causes

thereof, injury to wrappers, however caused, * * * heat * * * at any time or place * * * or any other perils of the sea, * * * the negligence, default, or error in judgment of the master, pilot, mariners, engineers, stevedores or other persons employed in or about the ship."

That at the time of the receipt of said Apollinaris Water on board said steamship, and at the time of the sailing [34] of said steamship on said voyage, claimant and its officers and agents had exercised due diligence to make said steamship in all respects seaworthy, and to properly man, equip and supply her, and that said Apollinaris Water was properly loaded and stowed and was, during all the time of said loading and upon said voyage, properly protected, cared for and ventilated; that plaintiff is informed and believes and, upon such information and belief alleges, that said Apollinaris Water was placed in bottles at *lot* temperature, which caused said Apollinaris Water to absorb the gas with which it was charged and the bottles in which the said Apollinaris Water was contained were not of sufficient strength and shape to withstand the pressure upon said bottles by said gas, upon the same being thrown off by said mineral water when said bottles were subjected to the natural and usual heat of the cargo compartment of said vessel in which said bottles were stowed, and that, by reason thereof, many of said bottles burst and the contents thereof—said Apollinaris Water—was precipitated upon said cases and the wrappers of said bottles, damaging the same; that if said damage resulted from any other than the aforesaid causes, it was due

to leakage and wastage of said mineral water, breakage of bottles, and heat extraneous to said bottles, and perils of the sea, to wit, the natural heat of the cargo compartment of said vessel in which said Apollinaris Water was stowed; and that all such leakage and wastage of said Apollinaris Water, and breakage of said bottles, and heat, and damage to said wrappers and labels on said bottles, was entirely without any fault or negligence on the part of said steamship or her master, officers or crew, or this claimant, or of any of the agents or employees thereof; and that all of said causes of damage are [35] within the exceptions contained in said bill of lading, to which bill of lading reference is hereby made, and the same is hereby made a part of this answer with the same force and effect as though the same were herein set forth at length.

VII.

That claimant is a corporation duly organized and existing under and by virtue of the laws of the Kingdom of Great Britain.

VIII.

That all and singular the premises set forth in this answer are true and within the admiralty and maritime jurisdiction of the United States and this Honorable Court.

WHEREFORE, claimant prays that the libels herein, and each of them, may be dismissed, and that it may have judgment against said libelants, and each of them, for the costs and disbursements incurred herein; and for such other and further relief as may

be *deemed and* equitable in the premises.

PAGE, McCUTCHEN, KNIGHT & OLNEY,
Proctors for Claimant. [36]

State of California,
City and County of San Francisco,—ss.

Ira A. Campbell, being first duly sworn, on oath deposes and says:

That he is one of the proctors for the above-named claimant, Lancashire Shipping Company, Limited, and that, as such proctor, he makes this verification for and on behalf of said claimant for the reason that none of the officers of said claimant are within the jurisdiction of this court and able to make this verification in person; that he has read the foregoing answer, knows the contents thereof, and that the same is true, except as to those matters which are stated on his information or belief, and as to those matters, that he believes it to be true.

IRA A. CAMPBELL.

Subscribed and sworn to before me this 11 day of August, A. D. 1911.

[Seal] HENRY P. TRICOU,
Notary Public in and for the city and county of San Francisco, State of California.

[Endorsed]: Filed Aug. 12, 1911. Jas. P. Brown, Clerk. By Francis Krull, Deputy Clerk. [37]

[Opening Statement by Counsel for Libelant.]

In the District Court of the United States in and for the Northern District of California, First Division.

Hon. MAURICE T. DOOLING, Judge.

(No. 15,156.)

THE AMERICAN IMPORT COMPANY, et al.,
Libelants,

vs.

The British Steamer "SKIPTON CASTLE," Her Engines, etc.,
Respondent.

(TESTIMONY TAKEN IN OPEN COURT.)

Thursday, April 16, 1914.

Counsel Appearing:

WILLIAM DENMAN, Esq., for the Libelants.

IRA A. CAMPBELL, Esq., for the Respondent.

The COURT.—Who has the laboring oar in this matter?

Mr. DENMAN.—We having made a *prima facie* case the burden of proof is on the claimant. However, I will state the case, so that your Honor may understand the issues.

The steamer "Skipton Castle" loading at Antwerp for San Francisco via Magellan, took on various parcels of freight, of cargo, a number of parcels for San Francisco and San Pedro being stowed in No. 1 hold, the first hold in the ship as you come aft. Along with these parcels of freight was stowed a large shipment of animal fertilizer, bone-meal. Two days after they

were out of Hull—they came from Antwerp to Hull—they took their first temperature, which is ordinarily a daily occurrence on steamers of that character. They took their first temperature, or made the first record of the temperature in the log-book, showing that the temperature of this particular hold in which this fertilizer was [38] stowed with the shipment of cargo for San Francisco was about 50 degrees higher than the outside air, and 20 degrees higher than that in the adjoining hold. Daily records of temperature continued to be taken, showing a gradual climbing of the temperature of the hold until it reached in the log the temperature of 110 as the mean; how much higher or lower than that the extremes were on those dates we do not know, but the mean temperature recorded in the log-book was 110, and that was 25 or 30 degrees higher than the temperature in the hold immediately adjoining it, and that the outside temperature ranged from 50 to 60 degrees lower—that is, there was a difference of 50 or 60 degrees between the outside temperature and the temperature in that hold, and a difference of 20 or 25 degrees from the temperature in the other holds in the ship. When the cargo arrived here it was discovered that a large shipment of Apo*li*naris and Kaiser Water, both carbonated mineral waters, and coming from different places and bottled in different bottles had exploded; that is a very large percentage of the bottles had exploded and on the remainder of the bottles the casings and wrappings were covered with sweat, so that they were practically destroyed; that is, the casings and metal tops and the wrappings

were destroyed. The bills of lading did not except or contain any provision exempting the ship from the warranty of seaworthiness, and we have pleaded the injury to the cargo and the answer admits that certain injury was inflicted and sets up certain affirmative defenses which will no doubt be explained by my opponent. In order that your Honor may start out knowing what our position is exactly I will refer your Honor to these three cases which will control our contention:

The Carib, 170 U. S. 655;
The Caledonia, 157 U. S. 124;
The Southwark, 191 U. S. 1. [39]

Briefly these cases hold that where there is no exception of unseaworthiness in the bill of lading that a latent unseaworthiness will render the ship liable, even since the passage of the Harter Act. Second, that a vessel to be seaworthy must be *seaworth* as to the temperature of her holds; that is to say, seaworthiness does not merely consist of keeping the hull tight but for certain kinds of cargo such as mineral water or beef or anything requiring unusual care when put on board, the ship must have her holds seaworthy for that class of cargo. That is held in the Southwark case, which is a beef case; a failure of a supply of ammonia for the cooling plant was held to be unseaworthiness. These cases really control our case and will come in response to the affirmative defenses of my opponent.

Mr. CAMPBELL.—We contend of course that there is no unseaworthiness on the part of the vessel and at this moment I am as much in the dark as I

have ever been as to what the contention of unseaworthiness is based upon by counsel. We contend that the cargo was stowed as customary, properly stowed. The damage to the goods was a damage which unquestionably resulted from the bone-meal heating. The cause of the bone-meal heating is undisclosed; I think it is equally unknown to the libelant as it is to the claimant. The damage to the mineral water was the breakage of bottles. The deposition of the claimant of the larger portion of the mineral waters has been taken, and his admission is that damage was breakage. The damage to the willow-ware was a damage resulting from a fermentation or spores which destroyed the fibre of the willow-ware. The wrappings of the willow-ware were entirely decayed away, due either to a combination of the heat and sweat that was set up by the heating, or from the moisture which was in the atmosphere. That was added to by the mineral water which was freed by the breakage of the [40] bottles. All that character of damage is covered by exceptions in the bill of lading. I may say this, while counsel says that the burden of proof is upon us, we admit that if he alleges that all his cargo was damaged, we deny that all of his cargo was damaged; we say that that particular portion which was damaged as far as we know was damaged in this particular way.

Mr. DENMAN.—I understand there will be a reference to the Commissioner. We do not contend that they admit all the damage we claim was inflicted, but that there was damage for which there must be an explanation of some kind.

[Testimony of Alexander Woodside, for Respondent.]

ALEXANDER WOODSIDE, called for the respondent, sworn.

Mr. CAMPBELL.—Q. What is your business, Captain Woodside? A. Master stevedore.

Q. How long have you been engaged in that business? A. About twenty years.

Q. Where? A. San Francisco.

Q. During that time what character of ships have you loaded and discharged?

A. All kinds that come here.

Q. Does that include or not include the general type of cargo carrying ships which are plying between Pacific Coast ports and the United Kingdom and Continental ports? A. Yes.

Q. Have you during those years ever discharged bone-meal from ships? A. Yes.

Q. Have you during that period at any time had charge of the stevedoring of the Pacific Mail Steamship Company? A. Yes.

Q. During the period that you have been engaged as a stevedore in this harbor, I will ask you whether or not you have handled any bone-meal from ships?

A. Yes, lots of it.

Q. Have you ever at any time seen any bone-meal that had heated? A. I have not known of any.

[41]

Q. You have not known of any? A. No.

Q. How much bone-meal would you say that you have handled from ships, discharged from ships ar-

(Testimony of Alexander Woodside.)

riving in the port of San Francisco?

A. 30,000 or 40,000 tons.

Q. Where does it largely come from?

A. Calcutta originally, I think.

Q. From what other ports is it brought in?

A. From the Continent.

Q. From the Continent?

A. We have had shipments, yes.

Q. What can you say, Captain Woodside, of No. 1 'tween deck, or in the case of a shelter-deck vessel, of No. 1 shelter-deck hold for a suitable compartment in which to stow mineral water for a voyage from Antwerp to San Francisco?

A. It should be the coolest part of the ship.

Q. If you were to load mineral water into a vessel for a voyage from Antwerp to San Francisco, which compartment of the vessel would you give preference to?

A. Well, we get mineral water in all holds, but of course No. 1 is really the coolest hold, should be the coolest hold in the vessel.

Q. Have you been the stevedore for the Harrison Line which runs in here—is that line plying to this port now? A. Yes.

Q. What size of ships are they operating?

A. Ten and 12,000 ton ships.

Q. Do those ships carry mineral water?

A. Yes.

Q. In what part of the ship is the greater part of the mineral water stowed and customarily carried?

(Testimony of Alexander Woodside.)

A. Well, keep it from the boilers; that is the main thing.

Q. Keep it from the boilers? A. Yes.

Q. Can you state whether or not you find these ships carrying it in No. 1 shelter-deck hold or No. 1 'tween-deck hold? A. Yes, No. 1 and 2 hold.

Q. That is where they carry it?

A. Well, as I say, they carry **[42]** it in all the holds, as long as it is away from the boilers.

Q. What can you say, Captain Woodside, as to the custom of fastening the 'tween-deck hatches or the hatches leading to the lower holds of the vessel, fastening them down so that they are airtight and water-tight—what is the custom?

A. That is not done.

Q. Never done? A. No.

Q. I will ask you whether or not you have seen vessels come into port with the 'tween-deck hatches laid so as to leave an open space between the hatches to give a free ventilation of air.

A. Lots of times, yes.

Q. Did you see this mineral water that came out of the "Skipton Castle"? A. Yes.

Q. What was the condition of the bottles?

A. It was a very bad shipment, in my opinion.

Q. What was the condition of the bottles?

A. Well, there was plenty of leakage.

Q. I mean the bottles themselves?

A. Exploded bottles, caused by explosion.

The COURT.—Q. Just what do you mean by a bad shipment?

(Testimony of Alexander Woodside.)

A. Well, from our usual way of seeing a shipment, it looked to us at the time a very bad shipment, covered with stain and water from the broken bottles.

Q. You mean when it reached here? A. Yes.

Q. You are not speaking as to its condition when shipped?

A. No, I could not tell anything about it. Turning the cases up, the water would be underneath the cases, and things like that.

Mr. CAMPBELL.—Q. Did you open any of the cases yourself to see the condition of the bottles?

A. Personally I did not.

Q. Did you see the ventilators and the size of the ventilators that were running into No. 1 'tween-deck hold and No. 1 lower hold of the "Skipton Castle"?

A. Well, she had ventilators, I could [43] not just say the size of them; I would say they were probably 16 or 18 inch ventilators.

Q. From what you saw of the "Skipton Castle"—was she in here several times?

A. I am not sure whether she was in a second time or not.

Q. From your recollection of what you saw of her ventilators, what is your judgment as to how her ventilation compared with the usual ventilation on cargo carrying ships?

A. She was ventilated in the usual manner.

Cross-examination.

Mr. DENMAN.—Q. Captain, as I understand it,

(Testimony of Alexander Woodside.)

your testimony in regard to the bone-meal is that you have never taken any off that was heated when you took it off the ship? A. No.

Q. That is all you know about it?

A. We have never had any remarks about it in regard to heating.

Q. What is that?

A. I have never heard any remarks about it in regard to heating.

Q. Never heard any remarks about it? A. No.

Q. That is to say, you don't know of its ever having been taken off a ship when it was heated?

A. We have never taken it off hot.

A. When it was hot? A. No.

Q. You have had to resack it at times, haven't you, shovel it into new bags?

A. That may happen on the wharf; we have got nothing to do with that.

Q. You don't know about that, then?

A. They have the sweepings, of course; the sweepings swept up and put ashore, and I think they pack them away.

Q. That has to be done on practically every shipment of bone-meal, does it not? A. Yes.

Q. Quite a percentage of that, isn't there, of bone-meal? A. Probably 2 or 3 per cent. [44]

Q. Don't it run a good deal more than that on some voyages?

A. That depends on the holds they stow it in; sometimes they stow it in the tanks, and there is considerable because the sacks get torn in taking

(Testimony of Alexander Woodside.)
it out from the angle-irons and things like that in the hold of the vessel that tear up considerable of the sacks, and then of course there is considerable bone-meal to be swept up.

Q. It is the practice and custom to have to resack a great deal of bone-meal, more than other sacked stuff? A. Not if it is in a clear hold.

Q. Can you recall any occasion that illustrates your statement?

A. For instance, the Pacific Mail Company stows it in the tanks, and we generally have more or less than we would have if it had been stowed in an open hold.

Q. You are speaking of the deep tanks?

A. Yes, where there is angle-irons and things like that to cut the sacks on.

Q. Also where there is no ventilation?

A. Well, as to the ventilation I don't know as it has much to do with that.

Q. Captain, you were speaking of the forward 'tween-deck spaces, and that being a good place to stow mineral water, and I suppose the reason you desire to have it there is because of the liability of the waters to explode in changes of temperature, isn't it?

A. No, I would not say that. I would say that the forward hold in the vessel is generally the coolest for the reason that a vessel at sea is driving into the head seas and she has always salt water over it, keeping the forward holds of the vessel cool going

(Testimony of Alexander Woodside.)

through the tropics, more cool that the after end, that would not have the water in the same way.

Q. That is the reason you would want them in the forward between-deck space?

A. And the air at the same time. [45]

Q. And for that reason it would make it difficult to ventilate the forward hold on account of the spray coming over and getting inside of the hatches?

A. If you have bad weather you have got to cover all your ventilators. Many times you have got to put the covers on all the ventilators, in stress of weather.

Q. But that is more particularly true with the forward ventilators on account of the spray coming over?

A. When the weather gets very bad, you have got to cover them all.

Q. But it is very particularly true and more evidently true of the forward ventilators on account of the spray coming over the bow of the ship?

A. When you have bad weather you have to cover all the ventilators.

Q. Haven't you said that the reason why this forward hold is cooler is because you have more water over the deck? A. Not over the deck.

Q. Over the sides of the vessel?

A. Well, I am talking now about the head of the vessel.

Q. Her head is more in the water than she is further astern? A. Yes.

Q. That is your idea? A. Yes.

(Testimony of Alexander Woodside.)

Q. Isn't it true that the forward ventilators you have to close more often in bad wtather than the after ventilators?

A. No, I would not say that.

Q. Do you know anything about the chemical properties of bone-meal? A. No.

Q. It is just bone ground up, isn't it?

A. I presume so.

Q. Right at the slaughter-house?

A. I don't know.

Q. You don't know. Do you know, or don't you know, that it is bones ground up?

A. I presume it is.

Q. Have you ever handled any sacks of it yourself; that is, with your own hands?

A. I turn them over once in a while, probably.

Q. But you have not any experience of your own, actually coming in contact with these cargoes that you take out? **[46]**

A. Certainly. I am down in the hold all of the time off and on.

Q. Have you ever handled yourself any of the sacks?

A. If you mean slinging the sacks, no, I do not.

Q. How much do the sacks run?

A. A sack probably measures about 18 or 20 inches across by 3 feet or 3½ feet long, about a foot thick.

Q. Do you know how it is applied as a fertilizer, how it is used? A. No.

Q. You say that you would desire to keep the

(Testimony of Alexander Woodside.)

mineral waters away from the boilers. What is the reason for that?

A. Well, you keep mineral waters, you keep liquors and you keep dried fruits and things like that—most of those goods it is stipulated to keep away from the boilers, keep in a cool place; those two holds are the coolest places in the ship.

Q. What would be the difference in temperature between those compartments next the boilers and the compartments out of the end of the vessel?

A. It would be considerable.

Q. 4 or 5 degrees? A. All of that, yes.

Q. You think that would make a difference on the water, do you, on the mineral waters?

A. Well, I don't know as there would be heat enough to do the mineral waters any harm.

Q. You always do stow them away from those holds? A. Not particularly.

Q. I thought you just stated you stowed them far away from the holds that were near the boilers?

A. You take a good many boilers, the construction of them to-day, and there is probably a water-tank between the boiler and the hold abaft of that; the engine-room is forward of the boilers; on the other end you are pretty well clear of it. In the between-decks you probably are over the top of the boilers, maybe nearly.

Q. What difference would that make in the temperature of the [47] 'tween-decks?

A. If you got alongside the boilers, of course it would get hot.

(Testimony of Alexander Woodside.)

Q. Would it ever raise your hold to 90 degrees?

A. If your between-decks is over the top of the boilers, yes.

Q. You would not put your mineral waters in there? A. No.

Q. You think that would be too high a temperature to be a safe thing? A. Yes.

Q. Suppose you found the temperature in your hold 20 degrees or 50 degrees warmer than your outside air, what would you say as to the possible causes of that increased temperature where the general cargo was stowed. Could you get such an increase from any action of the boilers? A. No.

Redirect Examination.

Mr. CAMPBELL.—Q. You have just stated a moment ago that the between-decks near the boilers would be warmer. Is that true of No. 1 'tween-deck hold? A. No.

Q. Is No. 1 'tween-deck hold anywhere near the boilers?

A. That is 2 or 300 feet from the boilers on a ship of that size—probably 150 or 200 feet away from the boilers.

Q. What can you say as to the quantity of ventilation that the "Skipton Castle" had in No. 1 hold as compared with the other holds, that is, the number of ventilators and size of the ventilators?

A. That class of vessel, as a rule, has four ventilators in each hold, two at each end.

Q. Is No. 1 as large as No. 2 hold?

(Testimony of William Edwin Bunker.)

A. No, No. 2 hold is the largest, as a rule, on any ship.

Q. What company are you manager of?

A. San Francisco Stevedoring Company.

Q. Are you the acting manager? A. Yes. [48]

[Testimony of William Edwin Bunker, for Respondent.]

WILLIAM EDWIN BUNKER, called for the Respondent, sworn.

Mr. CAMPBELL.—Q. What is your name?

A. William Edwin Bunker.

Q. What business are you engaged in, Mr. Bunker?

A. Agent for the Pacific Mail Steamship Company.

Q. How long have you been agent of the Pacific Mail Steamship Company at San Francisco?

A. About 8½ years.

Q. For 8½ years? A. Yes.

Q. During that period, has the Pacific Mail carried any bone-meal? A. Considerable.

Q. Have you brought with you any records, or are you able to testify as to the quantity of bone-meal which the Pacific Mail's ships have carried across the Pacific, during the last two years, we will say?

A. Yes.

Q. Will you tell us what those quantities were?

A. In 1912 we carried approximately 30,000 bags, and in 1913, 20,000 bags.

Q. What can you say as to the quantities they

(Testimony of William Edwin Bunker.)
had been carrying in previous years?

A. Well, it has run about the same, as far as I remember.

Q. Does that extend over the period of your agency with the company here, or not?

A. It does.

Q. During all of that time, Mr. Bunker, have you ever known of any of the bone-meal carried by the Pacific Mail ships heating? A. No.

Q. Where does the Pacific Mail pick it up in the Orient? A. Hong Kong.

Q. Where does it come from to Hong Kong?

A. It comes from Calcutta.

Q. Have you ever, during that time, noted any of the sacks of the bone-meal that indicated that they had been heated? A. No, I have not.

Q. Have you ever heard by any report by any officer of your ship that bone-meal was ever heating during those years? A. No. [49]

Q. Have you brought with you this morning any cargo plans of your ships showing where they carried the bone-meal? A. Yes.

Q. Will you produce them and describe to us from those plans where the bone-meal has been carried, and what other cargo has been carried in the same compartments with it?

A. I have brought the plans here of the different types of vessels that we run to the Orient. In some cases the bone-meal has been stowed in the deep tanks; in others, in the hold with general cargo of

(Testimony of William Edwin Bunker.)

all descriptions, merchandise and matting, rice, tea and similar articles.

Q. What is the plan that you have in your hand now?

A. "Manchuria," Voyage 40, October 21, 1913.

Q. Where was the bone-meal carried and stowed then?

A. 1500 sacks of bone-meal were stowed in No. 7 and 8 lower holds, with flour, general merchandise, coffee, tea, matting and rice.

Q. Have you other plans with you? What size ship is the "Manchuria"?

A. The "Manchuria" is 28,000 gross tons. The "Persia," a smaller boat, she had bone-meal in No. 1 orlop deck; there was also pepper in that hold.

Q. What time was that?

A. That is October 12, 1913, Voyage 15.

Q. What size ship is the "Persia"?

A. The "Persia" is about 11,000 tons gross.

Mr. DENMAN.—Of course, I shall object to this testimony unless it is connected up in some way with this man's personal knowledge of the holds. I presume that they are going to make that showing. I reserve my right to strike it out.

Mr. CAMPBELL.—If you have an objection of that character, I would like to have you state it, so that the Court may rule upon it.

Q. Do you know whether or not on those voyages the bone-meal was carried in those places?

A. Why, yes, in a general way, I do.

(Testimony of William Edwin Bunker.)

Q. What do you mean "in a general way"?

A. I could not testify [50] that I have been down in the hold on these particular voyages. At the same time, I am down in the holds in practically every steamer that arrives in port. If not, I see the stowage from the dock. I at least know of seeing bone-meal come out of those hatches.

Q. Why are these stowage plans made up, for what purpose?

A. In order to tell us at San Francisco how much cargo is stowed, so that when the ship arrives we can go to work on her, know where her cargo is, and know the number of gangs to employ and so forth.

Q. Do you rely upon these plans in that?

A. Yes; we do.

Q. By whom are the plans made up?

A. By the chief officer.

Q. When does he make them up?

A. On the voyage to San Francisco.

Mr. DENMAN.—I move to strike out all the testimony of this witness in regard to these specific plans and the stowage of cargo on them. He is not shown to have known these matters of his own knowledge, and, apparently, knows them only by hearsay from documents of officers. Further, it is not shown he knows anything about the conditions in the hold, as to the temperature or changes of temperature on these voyages.

The COURT.—The motion will be denied. I would like to ask you one question: Do you find any

(Testimony of William Edwin Bunker.)

variances in the discharge of cargo, from the stowage plans. A. No, I can't say that I have.

Mr. CAMPBELL.—Q. Just continue, if you will, and give the stowage on other types of your vessels.

A. The "Siberia," 18,000 tons gross ship, a different type from the "Persia" or "Manchuria," had bone-meal in No. 3, with tea, tapioca and rice.

Q. What voyage was that?

A. This is voyage 50, October 31, 1913. The "Nile," Voyage 7, No. 2 lower hold, bone-meal, matting, merchandise. I have given a sample of the different types of vessels we have now. **[51]**

Q. Have you any cargo plans there showing a voyage of the "Nile" on which bone-meal was stowed with other wet cargo?

Q. Yes, the "Nile," Voyage 8, bone-meal was stowed in No. 3 orlop deck, with Honolulu and San Francisco wet cargo.

Q. What do you mean by "wet cargo"?

A. Soy, saki, and miso—Japanese wet cargo.

Cross-examination.

Mr. DENMAN.—Q. You mean the tub cargoes?

A. In tubs.

Q. Are these tight tubs, tight all over?

A. Yes.

Q. That is, the wet materials could not get out of the tubs?

A. Well, if there was any heat in the hold, the tub would ferment. The soy, particularly, would ferment and burst the head of the tub.

(Testimony of William Edwin Bunker.)

Q. On this voyage, that didn't occur, as I understand it? A. No.

Q. Do you know whether in *any these* cases that bone-meal was put on the vessel wet, of your own knowledge?

A. No, I do not. Our records show that it was received in good condition, though.

Q. Received on your vessel in good condition?

A. Yes.

Q. Of course, if it were wet, it would be noted, would it not? A. Yes.

Q. Do you know of your own knowledge the conditions of temperature in any of those holds on any of those voyages, of your own knowledge?

A. No.

Q. So that all you can testify is that you have seen certain cargo stowage plans, in which bone-meal received in good condition, that is, dry, was stowed with other cargo that might be damaged if the bone-meal had heated?

A. No. I can testify to actually having seen the stowage of bone-meal in our ships with other cargo.

Q. No, I am speaking with reference to these stowage plans, all that you can say—

A. I could not say with respect to these particular plans whether I had seen it or not. **[52]**

[Testimony of F. W. Tompkins, for Respondent.]

F. W. TOMPKINS, called for the Respondent, sworn.

Mr. CAMPBELL.—Q. What is your business, Mr. Tompkins? A. Industrial chemist.

Q. In San Francisco? A. Yes.

Q. Did you examine any willow-ware that came out of the "Skipton Castle"? A. I did.

Q. On or about March 11th?

A. I presume that was the date; I don't recall that.

Q. By whom were you employed, Mr. Bishop?

A. I think so; Mr. Bishop, or the firm, I don't remember which.

Q. By the firm of Johnson & Higgins?

A. Johnson & Higgins.

Q. Did you examine any of the willow-ware for salt, to determine whether or not it came in contact with salt water? A. Yes.

Q. What did you find?

A. That there was no more or possibly less than the natural salt.

Q. What was your judgment, from the investigation, as to whether or not it had come in contact with salt water? A. That it had not.

Q. What was the condition of the wrappers around the willow-ware? A. Decayed.

Q. What was the condition of the willow-ware?

A. Well, I believe it was in the same condition. I would have to refresh my memory from the work

(Testimony of F. W. Tompkins.)
in the case. I believe it was the same.

Q. What is that?

A. I say I would have to refresh my memory from the work in the case; practically, as near as I remember, it was all in the same condition.

Q. And that condition was what?

A. The same condition, rotted.

Q. It was rotted? A. Rotted and moldy.

Q. What was the condition of the fibre of the willow-ware?

A. Why, I believe the same. The texture was gone, to a large extent, I believe. I do not remember the willow-ware, in particular. **[53]**

Q. When you say you would have to refresh your recollection, you mean by reference to what?

A. To a report I made at that time.

Q. Have you the report with you? A. Yes.

Q. If you cannot testify without reference to any report that will refresh your recollection, I will ask the permission of the Court to have the witness refresh his recollection from the record.

Mr. DENMAN.—No objection.

A. Furthermore, a fact which corroborates the general analytical finding is the fact that a role of spores had developed on the wet straw and sacking, and in the case of the latter two, had almost entirely destroyed the textile strength. That covers the thing.

Cross-examination.

Mr. DENMAN.—Q. Mr. Tompkins, may I examine your report?

(Testimony of F. W. Tompkins.)

A. Yes.

Q. Did you go into the hold of this vessel, yourself? A. No.

Q. How much of a piece did you make this report on, this piece of willow-ware?

A. I would not attempt to say, I don't recall.

Q. Have a whole chair, or whole basket, or something of that kind?

A. No. As near as I can recall, a good size, simply. I don't remember the particulars of that. It is three years ago.

Q. You are a chemist, are you not? A. I am.

Q. You are familiar with the properties of bone-meal?

Mr. DENMAN.—I will make him my own witness.

[Testimony of F. W. Tompkins, for Libelants.]

F. W. TOMPKINS, recalled for libelants.

Mr. DENMAN.—Q. Are you familiar with the properties of bone-meal?

A. To a large extent.

Q. That is an animal fertilizer, is it?

A. Yes. You mean its origin is animal.

Q. Yes. I am not speaking of bone-ash. I am speaking of bone-meal, ordinary bone-meal brought into this port from Euorepan ports. What is the chemical in that that makes it valuable for fertilization, **[54]** or what are the chemicals?

A. Why, phosphoric acid, which is contained in the bone, dry calcium phosphate, and the ammonia that is contained in the protein, which, in the course

(Testimony of F. W. Tompkins.)
of decomposition, has nitrogen requirements, nitrogen fat.

Q. Suppose your bone-meal is wet after it is ground and stacked up in piles while it is wet, will it have a tendency to ferment?

A. I should believe so, if the moisture was sufficient.

Q. That has been the experience of the manufacturers here, has it not?

A. That I don't know. I am only speaking from the theoretical supposition. A special observation I have never made in that respect.

Q. Would it not be inevitable that you would get heating and fermentation if the bone-meal were wet and stowed in piles?

A. I would not want to say it would be inevitable. I would say a likelihood of it, depending on associated conditions, possibly.

Q. What do you mean by "associated conditions." Suppose now that you associated the condition of the temperature of 85?

A. That would be a favorable indication, I think, in the presence of sufficient moisture.

Q. If that bone-meal were in sacks, and there was sufficient moisture there to create this fermentation and heating, would you be able to notice it in handling the sacks?

A. Well, I should imagine you would. I do not really know about that. If the heating has taken place—

(Testimony of F. W. Tompkins.)

Q. (Intg.) I am presuming now that this is before the sacks are piled, but it has been wet, would it have to be sufficiently wet for you to notice that?

A. I don't think it would. The outside would dry out quickly and the inside might be quite damp. The external indications would not amount to any great deal.

Q. Would not amount to a great deal? A. No.

[55]

Q. So that any time you might have this damp bone-meal on your hands with its power of heating up and at the same time not be aware of it?

A. Yes, although when you have control of it, the uniform weight of the sack gives very nearly a definite amount; that would be noticeable if it were over that.

Q. It would show it in that way?

A. It should, or at least it would be a means of showing it.

Q. Have you figured how much it would take?

A. It is really a matter of mathematical figures; if it took up 10 per cent—

Q. (Intg.) Have you ever figured what percentage of increase in weight would be necessary to start it fermenting? A. No.

Q. Would that be appreciable? A. No.

Q. Would not that depend upon the amount of protein?

A. The amount of protein, the amount of moisture and the degree of fineness of the material. There is no cut-and-dried rule governing it.

(Testimony of F. W. Tompkins.)

Q. How is the ammonia or the nitrogen got out of the bone-meal for the purpose of fertilization?

A. It is a process of decay, it is a conversion of one product into others, into their component parts.

Q. In other words, in order to get the fertilizing effect out of the bone-meal, you have got to go through this heating process in the soil?

A. The decaying process must take place in the soil.

Q. That is the heating process, isn't it—heat accompanies it? A. Yes.

Q. Take a pile of bone-meal which would fill the forward hold of a ship say 18 feet deep and 40 feet wide and 60 feet long, and assume that that bone-meal were in this wet condition sufficient to cause fermentation, and the normal temperature of the hold would be around 80 or 85, and you discovered that the temperature of the hold two days thereafter, after it had been piled there, was around 110, or, say, a week thereafter, a gradual climbing temperature to 110; would [56] you say that there would be sufficient fermentation in the bone-meal to have occasioned that temperature?

A. I do not believe I would be a competent judge.

Q. Would it be reasonable to expect it?

A. Possibly; if there was no ventilation, it might be.

Q. Well, now, isn't it entirely possible that it could run up to 150 degrees?

A. That would entirely depend upon the ability for the temperature to radiate through contact with

(Testimony of F. W. Tompkins.)

the sides or the accessibility of the sides to ventilation.

Q. I am presuming now we have a surface, a radiating surface, which is 40 by 60, and in a hold rising above that, having an area, say, of 40 by 60 by 10?

A With the radiating surface of wood or metal?

Q. Metal.

A. I don't think I am competent to answer a hypothetical question of that kind.

Q. It would not be impossible?

A. It is too much guess work.

Q. Judging from your knowledge of the chemistry of bone-meal, presuming, also, that you could find no other explanation for the temperature, would it be reasonable, under those circumstances, to attribute it to the fermentation of the bone-meal?

A. Why, I think it is possible, in the event of no other explanation, that that would be at least one reasonable supposition, that might occur.

Cross-examination.

Mr. CAMPBELL.—Q. Mr. Tompkins, what is it that causes coal to heat to a sufficient temperature so that it will take fire in a ship's hold?

A. Well, I am not so familiar with spontaneous combustion of coal; it is due largely to generation of gases.

Q. What, in your judgment, Mr. Tompkins, would be the cause of the decomposition or decay, or fermentation that you found in these baskets and their wrappings?

(Testimony of F. W. Tompkins.)

A. The origin of it was due to the presence of moisture—

Q. (Intg.) Combined *what* what? [57]

A. Combined with normal organisms that always accompany these products, straw or hay, and when they are in a fertile medium, they radiate heat, fermentation and decay.

Q. Would the heat that was exterior to the package of willow-ware itself, assist in this process of decay?

A. Very much.

Q. What would be your judgment as to the normal heat in a ship's hold being sufficient to set up that process of decay?

A. There again I do not believe I am competent to judge.

Redirect Examination.

Mr. DENMAN.—Q. Do you think that the mere passage of sea air through ventilators across the top of bone-meal would generate any such heat as I have described? A. Repeat that again.

Q. Do you think that the mere passage of ventilator sea air across the top of bone-meal, sea air coming up through the ventilator and passing across the top, presuming now that this ventilator on this side sends down a current of air which passes across the top of it and goes over to the other ventilator and goes out, would you think that the sea air passing under those conditions would contain sufficient moisture to cause this fermentation in this way?

A. Why, I should not judge that it would.

Q. You would think that it would require very con-

(Testimony of F. W. Tompkins.)

siderable wetting of the bags, actual wetting of the material, to cause it to ferment?

A. How is that?

Q. You think it would require actual wetting of the material to cause it to ferment?

A. A material of that kind, I would.

Recross-examination.

Mr. CAMPBELL.—If the bone-meal was not thoroughly cured, but was packed in green condition and then stowed in a ship's compartment, would there be any tendency toward this decomposition of the bone-meal that would set up heat? [58]

A. Yes, that would be a more favorable condition.

Q. More favorable. Not actually wet?

A. That is the same as wet. There is another condition of the raw material which enters into the possibility of fermentation very largely, and that is the amount of grease and the proportion of protein matter that is there; if it were not properly eliminated, it would have a tendency to get heated more rapidly.

[Testimony of John A. Bishop, for Respondent.]

JOHN A. BISHOP, called for the Respondent, sworn.

Mr. CAMPBELL.—Q. Are you an employee of the firm of Johnson & Higgins?

A. I am an employee of the firm of Johnson & Higgins.

Q. Did you have charge of the claims that arose from this damaged cargo on the "Skipton Castle"?

A. I did.

Q. Who employed Mr. Tompkins to make an ex-

(Testimony of John A. Bishop.)

amination of the condition of the willow-ware?

A. I did.

Q. Did you see the condition of the mineral water that came out of the ship?

A. My recollection is that I saw a few cases. I did not see the entire shipment.

Q. What was the condition of the bottles?

A. The bottles were broken and the straw was wet and rotted.

Q. Did you see the willow-ware?

A. I saw the willow-ware.

Q. In what condition was that?

A. It had a black mildew. The burlap that was wrapped around it was decayed and rotted.

Q. What was the condition of the willow-ware itself?

A. The willow-ware in places was also decayed and rotted.

Q. When you took it in your hand, how would it act?

A. It would break into small pieces, and in some cases, it would powder.

Mr. DENMAN.—No questions.

Mr. CAMPBELL.—I offer in evidence the depositions of S. M. Keame [59] and Norman Watkins; the depositions of Lambert Page and J. Nelson Craven. I shall have to supply the exhibits which are not here.

Mr. DENMAN.—I want to object to one portion of the deposition last offered, which is the deposition of Lambert Page. At page 62 is the following question:

(Testimony of John A. Bishop.)

"Q. Did you make up the log? A. Yes, sir. Q. And are the facts therein stated true? A. Yes, sir." That is making the whole log by that statement as evidence in favor of the claimant who prepared the log. We object to that question. I first object to the question upon the ground it is immaterial, irrelevant, incompetent and hearsay, and self-serving. For instance, here is this situation: this log contains, I suppose, 300 or 400 or one thousand entries, and in an omnibus manner all of these entries are proved up to the Court as true by that single question. If we were to cross-examine, for instance, on that, we would have to go through the entire log. Our contention is, and it has been held repeatedly, it is elementary, that you cannot put in the log to prove your own side of the case; that your opponent may put it in if he deems it wise, but that you cannot prove affirmative facts by such a self-serving document, testified to as being true.

Mr. CAMPBELL.—The record shows that the log was offered in evidence by Mr. Denman, who was asking the witness about it.

The COURT.—The objection would go more to the admissibility of the log than to this declaration.

Mr. DENMAN.—The point I am making is this, that it is an improper question to put to a witness, are all the statements in that book true; you do not have any chance to object to the individual question; you have no chance on that of determining exactly what is intended to be used and what not; you have a vast mass of matter going into the record there as evidence.

(Testimony of John A. Bishop.)

The COURT.—That does not make the matter spoken of evidence. I [60] do not see any objection to the question. If a man is on the witness-stand and testified under oath, and you ask him if the statements there are true, and he says they are, that does not make the log evidence at all.

Mr. DENMAN.—When the log is tendered in evidence, it comes in evidence with that statement annexed to it. I am quite certain that a trial court would not be sustained in any finding that could be based on any statement in that log. Here is a statement. The log is true, the log is in evidence and I have no chance of examining the witness on the specific statement in the log that he may rely on ultimately.

Mr. CAMPBELL.—That question and answer would be of no value to me if you had not offered the log in evidence.

Mr. DENMAN.—I have a right to offer the log in evidence for what it is worth and use it as an admission against you, but I am not compelled to accept all its statements as true.

The COURT.—The objection is overruled.

Mr. CAMPBELL.—I also offer in evidence the deposition of William Baird.

Mr. DENMAN.—I offer the deposition of Joseph A. Anderson on the condition of the Apollinaris water and the cause of the injury to it.

Mr. CAMPBELL.—I have not yet concluded my case. I have two shipmasters, one of whom was to come from Port Costa, this morning, and the other

(Testimony of Thomas L. Brennan.)

whose ship has just arrived in port. I will endeavor to get in touch with them before I come to court this afternoon. I would like to put them on at 2 o'clock. [61]

[Testimony of Thomas L. Brennan, for Libelant.]

THOMAS L. BRENNAN, called for the libelant, sworn.

Mr. DENMAN.—Q. Mr. Brennan, what is your occupation? A. An importer.

Q. What firm are you connected with?

A. The American Import Company.

Q. Do you remember the shipment of willow-ware that came to your firm on the "Skipton Castle" some three years ago? A. I do.

Q. Did you see it when it was taken out of the vessel? A. I did.

Q. What was its condition?

A. It was in very bad condition.

Q. Describe it.

A. Well, the coverings on about half of the shipment of baskets were pretty well rotted, and a great many baskets were rotted so that you could break the willow-ware by putting your finger into the bundle; a good many of the others were black. I don't remember seeing any of them moldy. On some of the baskets there was a white deposit.

Q. Has your firm imported baskets on that same voyage before? A. On the same voyage?

Q. On the same voyage from Europe?

A. What do you mean by the same voyage?

(Testimony of Thomas L. Brennan.)

Q. Has your firm imported baskets on the same route?

A. Oh, yes, plenty of them, a great many of them, a great many of them.

Q. Have you ever had any damage similar to this before? A. Nothing similar to this.

Q. How many shipments have you had of these from Europe?

A. I think probably 15 or 20 shipments by that route.

Q. Never had anything like this?

A. Nothing just like this.

Q. Did you have anything similar to it in the way of injury to a large quantity of your baskets?

A. No, we have not. [62]

Q. How general was this injury to the cargo of baskets?

A. Well, we had about 450 bundles of baskets; about 250 of them were so damaged we could not do anything with them. Out of that I should judge that 30 or 40 bundles were very badly damaged; they were in that condition.

Cross-examination.

Mr. CAMPBELL.—Q. What was this other damage that you had suffered from?

A. Well, almost universally the other damage we have is coal dust.

Q. Haven't you found that your baskets are subject to ready decay on long voyages?

A. No, we have not. [63]

[Testimony of Marcus Fisher, for Libelant.]

MARCUS FISHER, called for the libelant, sworn.

Mr. DENMAN.—Q. Mr. Fisher, you were employed by Tillman & Bendel? A. Yes.

Q. How long have you been employed by them?

A. 27 years.

Q. What is your business with them, what do you do? A. Foreman and receiving clerk.

Q. Do you remember this shipment of mineral waters off the "Skipton Castle"? A. Yes.

Q. About how any cases were there? A. 75.

Q. What was the condition of them?

A. Very bad condition.

Q. Describe it?

A. Well, they were all broken and blown, and the wrappings on the sides of the bottles were rotted out and we had to put new wrappings and everything around them.

Q. Had you ever received any other shipments from Europe by steamer? A. Yes, sir.

Q. Had you ever had any similar experience to this before? A. Never before.

Q. How many shipments do you suppose you have had coming that way? A. In bad condition?

Q. No, coming on that route from Europe here?

A. Well, we have had about 4 or 5 shipments every year.

Q. Of this same Kaiser water? A. Yes.

Q. What is Kaiser water?

A. It is a kind of mineral water.

Q. Is it charged?

(Testimony of Marcus Fisher.)

A. It is not charged—it comes from the spring charged.

Q. It is an effervescent water? A. Yes.

Q. It is a water that is bottled that has gas in it?

A. Yes.

Q. That has been in the market a great many years, hasn't it? A. Yes.

Q. How many bottles were blown to the case, do you recall?

A. Well, they were different; in some there was 5, in some there was 4, in some there was 6, and some none at all. But there was [64] most of them broken more or less in every case.

Q. And the wrappers rotted?

A. Yes, they could not use them.

Cross-examination.

Mr. CAMPBELL.—Q. The bottles, themselves, were broken, were they not? A. Yes.

[Testimony of A. P. Heiser, for Libelant.]

A. P. HEISER, called for the libelant, sworn.

Mr. DENMAN.—Q. Mr. Heiser, do you recall the discharge of the bottles and willow-ware from the "Skipton Castle"?

A. I recall the receiving of the Apollinaris water into the Peninsular Warehouse, yes, very well.

Q. How many cases did you receive?

A. 575 cases.

Q. What was the condition of the cases?

A. The condition of the cases was that they were wet, moldy and many of them had a substance attached to them similar to bran.

(Testimony of A. P. Heiser.)

Q. Bran?

A. Like bran—it is a substance very much like bran. I could not state what it was.

Q. That was on the boxes?

A. On the outside of the boxes.

Q. What was the condition of the bottles inside?

A. The condition of the bottles was that the bottles were broken, a great many of them blown, and the straw covers that contained them, originally contained them, were rotted and fell to pieces.

Q. Had you ever seen a shipment before in as bad condition?

A. I never in 15 years of experience in handling Apollinaris have seen a condition such as the condition of this shipment.

Q. Do you examine much Apollinaris?

A. In 15 years' time I guess I have personally supervised the examination, I should judge, of from 8 to 10 shipments a year, and out of those 8 or 10 shipments I have examined from 10 per cent of the quantity received down to 1 per cent. [65]

Q. Those shipments came by sea?

A. Yes, those shipments came by sea.

Cross-examination.

Mr. CAMPBELL.—Q. Who is the chief representative here of the Apollinaris agency, you or Mr. Anderson?

A. Mr. Joseph S. Anderson.

Q. What is your position?

A. My position is the proprietor of the Peninsular Warehouse.

(Testimony of A. P. Heiser.)

Q. You are not connected with the Apollinaris Company, itself? A. No.

Q. How near the wharves is the Peninsular Warehouse?

A. The Peninsular Warehouse is located at the northwest corner of Howard and Stewart Streets, within a short half block of the Howard Street wharf.

Mr. DENMAN.—I have no further witnesses at this time. I may want to meet the testimony that is coming on this afternoon. But at the present time, I am through.

(A recess was here taken until two P. M.)

AFTERNOON SESSION.

[Testimony of John Lacoste, for Libelant.]

JOHN LACOSTE, called for the libelant, sworn.

Mr. DENMAN.—Q. Mr. Lacoste, what is your occupation?

A. Cashier for the California Fertilizer Works and Bayle-Lacoste Company.

Q. What is the California Fertilizer Works?

A. Well, we produce and manufacture all kinds of fertilizer.

Q. Do you manufacture a product called bone-meal? A. Yes.

Q. What is that made from?

A. Well, it is made from all kinds of bones of animals, beef, and sheep, and all kinds. [66]

Q. Where are the bones taken from, the slaughter-houses? A. Generally, here.

Q. What is done to them, are they ground up?

A. They are ground up; treated and ground up.

(Testimony of John Lacoste.)

There are different ways of doing it.

Q. Did you ever have any experience with your produce, as to its heating while piled up in stacks?

A. I have.

Q. What is the cause of it?

A. Well, bone, if there is any kind of meat on it, will heat much quicker than will raw-bone.

Q. What is the cause of that heating?

A. The organic matter there is in it, the moisture and fat in it causes heat, and fermenting.

Q. Then the addition of moisture to the bone-meal will help the heating? A. Yes.

Q. Is that a familiar fact known to all the manufacturers of bone-meal? A. Yes.

Q. And you have had expericence with this heating in your business? A. Yes.

Cross-examination.

Mr. CAMPBELL.—Q. Bone-meal will heat more quickly if it is green, will it not, than when it is well dried?

A. What we call not clean bone-meal, which is dry, that will heat much quicker; if it is clean, raw bone-meal, it won't heat.

Q. The more thoroughly dried product it is the less inclined it is to heat?

A. When the organic matter is in it, if it is a bone-meal with a certain quantity of meat in it, it will heat. But if it is clean bone, hard bone, is clean, dry hard bone, it won't heat so easy, because it is hard, and it won't decompose as quick as the other on account of the fact that bone won't decompose where meat will.

[67]

[Testimony of A. S. Holliday, for Respondent.]

A. S. HOLLIDAY, called for the respondent, sworn.

Mr. CAMPBELL.—Q. Are you a master mariner, Captain? A. Yes.

Q. How long have you been such?

A. About 20 years.

Q. Do you hold British master's papers?

A. Yes.

Q. What ship are you master of now?

A. The "Crown Galicia."

Q. What size vessel is she?

A. She is 3,140 English register tons.

Q. What is her length? A. 40 feet.

Q. What is her gross tonnage?

A. We carry about 8,000 tons dead weight.

Q. Have you any ventilators in your No. 1 hold?

A. Yes.

Q. What is the size of your No. 1 'tween-deck hold?

A. The length of it is about 60 feet, 60 odd feet.

Q. Have you a drawing which you have made of the size of the hold? A. Yes, I have.

Q. Will you produce it, please? A. Yes.

Q. You say that your 'tween-deck hold is 60 feet. What does your plan show?

A. 70 feet between bulkheads.

Q. What are the bulkheads?

A. Iron bulkheads.

Q. Where are the bulkheads located, at the two ends of No. 1 'tween-deck hold?

(Testimony of A. S. Holliday.)

A. Both ends of No. 1 'tween-deck hold.

Q. What is the breadth of the forward end of your No. 1 hold? A. 26 feet.

Q. What is it at the after end? A. 49 feet.

Q. What is the beam of your ship?

A. 52 feet.

Q. What is the height of your 'tween-deck?

A. About 10 feet, No. 1.

Q. How many ventilators have you in your hold?

A. 4.

Q. What is the size of the ventilator that runs from the outside from the upper deck into the 'tween-decks? A. 17 inches.

Q. Is there a ventilator running from that into the lower hold? [68] A. Yes.

Q. Into the hold? A. It telescopes.

Q. What is the size of that?

A. That is about 13 inches.

Q. How many ventilators have you all told in your hold? A. In the hold, 4.

Q. Do you know the steamer "Skipton Castle"?

A. Yes, I have seen her.

Q. Is she as large a vessel as yours?

A. No, she is not as large as mine.

Q. In what trades have you sailed?

A. I have been in the West Indies trade, and running out here from home.

Q. Have you ever carried bone-meal in your ships?

A. Yes.

Q. What trade?

(Testimony of A. S. Holliday.)

A. In both the trade in the West Indies and this trade.

Q. How long were you in the West Indies trade?

A. About 19 years in the West Indies trade.

Q. During that time how frequently did you carry bone-meal?

A. Well, we were carrying, nearly every voyage, fertilizer.

Q. What quantities *would carry* each voyage?

A. Anything from about a hundred tons to maybe 200 tons; it varied.

Q. Have you carried any bone-meal from the Continent to San Francisso, or the Pacific Coast?

A. Yes.

Q. In all your experience, Captain, in carrying bone-meal, have you ever known it to heat on shipboard? A. No, I have never seen it heat.

Q. What hold of your vessel would you consider most suitable to carry mineral water?

A. Well, we stow the mineral water in all the holds, as a rule, but the best of them would have been 1 and 4—they would have been the best holds. [69]

Q. What are the numbers of the extreme holds?

A. Nos. 1 and 4.

Q. At the extreme ends?

A. Yes, we have four holds.

Q. What can you say as to whether or not No. 1 hold is as well a ventilated hold as the others in the ship?

A. Yes, they are just the same, the ventilation is the same.

(Testimony of A. S. Holliday.)

Cross-examination.

Mr. DENMAN.—Captain, as I understand it, your ventilation from, say, the lower hold No. 1 up is through a solid sleeve that runs inside the ventilator to the 'tween-deck space?

A. It is running from 'tween-deck into the upper deck, the ventilator.

Q. But it runs, as I understand it, there is a solid pipe from the lower hold right clear through out to the upper deck?

A. It enters into the upper deck ventilator.

Q. But isn't it solid right through all the way up?

A. It only goes up to the upper deck.

Q. It only goes up to the upper deck? A. Yes.

Q. But it passes through the 'tween-decks?

A. Yes, it is solid.

Q. So that none of that ventilation from the lower hold can get into the 'tween-decks: That is the idea, is it not? A. Yes, it passes right up.

Q. And out of the ship? A. Yes.

Q. The idea being to make two separate holds between the lower hold and the 'tween-decks and to carry the ventilation right through out from the lower hold. A. Yes, it is telescoped.

Q. I mean the purpose of that is to give a separate ventilation?

A. For both the lower hold and the 'tween-decks.

Q. So as to keep them apart; if you have warmer ventilation in the hold it will go up and out?

A. Yes, it passes right up.

Q. I mean the purpose is to have it go up there in-

(Testimony of A. S. Holliday.)
stead of having it mix through the 'tween-deck space?

A. That is right. [70]

Q. Your idea is that the forward 'tween-deck space is the best place to stow mineral waters?

A. I do.

Q. Because there you have the cooling effect of the outside air from the ventilators? A. Yes.

Q. And you can separate it off from the heat of the lower hold? A. Yes.

Q. And by keeping your hatches tight in between decks that will do that?

A. It will ventilate the holds right through.

Q. What do you mean by that?

A. We have got ventilators in each corner, and it will ventilate the lower hold and ventilate the 'tween-decks.

Q. But, as I understand, if you have any warm air in the lower hold you do not desire to have it get into the space where the liquors are, but to go outside?

A. It will pass up outside.

Q. That is the way you desire to have it when you load explosive liquors, like Apollinaris, and that sort of thing?

A. Yes, it is the regular ventilation.

Q. Now, is it not another reasan why you desire to stow the mineral waters in the 'tween-deck space, that you want to avoid extremes of temperature?

A. Well, the 'tween-decks space is about as equal in temperature as you can get.

Q. You are getting off, then, from the heat below, and you simply have the equalizing temperature of

(Testimony of A. S. Holliday.)

the air on the outside? A. Yes.

Redirect Examination.

Mr. CAMPBELL.—Q. What do you mean by getting off from the heat below? Do you find your lower holds are materially warmer than the 'tween-deck holds?

A. The wind passes down one ventilator and it gets into the 'tween-decks and also into the lower hold, passes across through the ship and up through the other ventilator. One ventilator is turned to the wind and another back to the wind, and makes a circulation of aid right through all the time in the 'tween-decks and lower holds. [71]

Q. Is there any material difference between the temperature in the lower hold and the 'tween-decks hold?

A. No, there is no material difference at all.

Recross-examination.

Mr. DENMAN.—Q. Do I understand your idea is you do not want to separate your vessel into holds, but that you want to have it all mixed up together, so that all the ventilation in the vessel will move through all the holds, or isn't it your desire to have each hold separate in itself?

A. You cannot have each hold separate in itself.

Q. Why not? A. Because you cannot.

Q. I mean for the purpose of ventilation, isn't it your desire to have each hold separate by itself?

A. You cannot possibly have each hold separate by itself.

Q. Why not?

(Testimony of A. S. Holliday.)

A. You cannot separate the lower hold from the 'tween-decks.

Q. Why not?

A. Because you cannot. I don't see how you can.

Q. You mean because one is on top of the other?

A. Yes.

Q. But your hatches are put on there to keep them apart?

A. Yes, they have hatches on, but they are never battened down.

Q. They are not battened down, but they are on there so as to prevent the circulation of air between the two spaces?

A. They are on there to stow cargo on top of, not to circulate the ventilation at all. The hatch is to stow the cargo on top of.

Q. Why do you have a separate sleeve, a separate ventilator for the 'tween-decks and your lower hold?

A. You must have, because the ventilator on the deck is a large one. From the 'tween-decks it comes up into a tube; the air comes down the side of this tube into the 'tween-decks, and then it passes down the tube also into the lower hold.

Q. But those are separate systems?

A. They are all one system. [72]

Q. Separate flows of air, I mean.

A. There will be separate flows of air; there are separate flows going through the lower holds.

Q. Is it your idea that the lower hold, if it has any warm air in it, ought to be ventilated up through the upper hold, or ought to go up through the ventilator?

(Testimony of A. S. Holliday.)

A. Through the ventilator.

Q. That is the idea of ventilating the lower hold?

A. Yes, that is how we ventilate it.

Further Redirect Examination.

Mr. CAMPBELL.—Q. Just give us a rough sketch, so that we can understand how one ventilator fits into the other. Assume that is the 'tween-deck and this is the lower hold. Show ue how your ventilators are.

A. This is the ventilator here. Then there is a tube that comes from the 'tween-decks up and there is a space of about two inches all around this one. This ventilation passes up through here, the air would come down here into the lower hold, and it would also come down here and into the 'tween-decks.

Q. It comes from the outside down where I have marked an arrow 1 into what?

A. The 'tween-decks.

Q. And where I have marked the arrow 2, the lower hold? A. Yes.

Q. You said the space between the sleeve to the ventilator is about 2 inches?

A. About 2 inches around.

Q. And the upper ventilator on your ship is 13 inches in diameter and the one leading into the lower hold is about 13 inches? A. Yes.

Q. There are four ventilators in No. 1 hold?

A. Four in No. 1.

Mr. CAMPBELL.—I will offer that in evidence as Claimant's Exhibit 1.

(Testimony of A. S. Holliday.)

Q. How old is your ship, Captain?

A. 8 years in October.

Q. How does the system on your vessel compare with the usual system of ventilation on British cargo carrying ships?

A. It is the usual system that we have. **[73]**

Further Recross-examination.

Mr. DENMAN.—Q. By the usual system you mean it is the system of having a sleeve inside?

A. From the 'tween-decks up into the upper deck.

Q. You are speaking now of the appliances for ventilation, when you say it is the usual system?

A. That is the usual ventilation.

Q. Now, look at this exhibit that has just been put in evidence, and I will ask you whether or not the air travelling from two up out of the ventilator, that is on the reverse ventilator—

A. (Intg.) The reverse ventilator.

Q. Should be allowed to mix in with this 'tween-decks hold or whether it ought to go right up outside?

A. It does pass right outside, because this tube is up into the ventilator about two or three inches.

Q. That is what it is intended to do, is it not?

A. The air passes up there.

Q. And that is the purpose of having your ventilator in that form, to give a separate flow of air from the lower hold to the outside?

A. Yes, to ventilate the lower hold as well as the 'tween-decks.

(Testimony of A. S. Holliday.)

Q. I will ask you again, does this ventilator through which the arrow marked "2" passes, does that ventilate the 'tween-decks?

A. No, it does not. This ventilates the lower hold, this portion here. That is what ventilates the 'tween-decks, there.

Q. By the part that ventilates the 'tween-decks, you mean the portion between "2," where it emerges into the hatch and the outer edge of the hatch?

A. There is a two-inch space there.

Q. In order to make it clear, I ask you again whether this ventilator from the lower hold is intended, as the air passes through there, to mix the air in the 'tween-decks?

A. No, it is not intended to mix. [74]

Q. The subject is to take any warm air in the lower hold out without reaching the 'tween-decks?

A. Yes, it passes right up that chimney.

Further Redirect Examination.

Mr. CAMPBELL.—Q. Do you ever batten your 'tween-decks down so as to make them air tight?

A. No.

Q. Did you ever see them battened down tight in a ship? A. No.

Q. Do they put the hatches on simply to hold cargo, so that you may stow cargo on top of them?

A. Yes.

Further Recross-examination.

Mr. DENMAN.—Q. You do not expect to ventilate through these hatches; you ventilate through the ventilators?

(Testimony of A. S. Holliday.)

A. That is what they are there for.

Q. You don't ventilate through those hatches?

A. No.

Mr. CAMPBELL.—I offer in evidence, if the Court please, the bills of lading covering this shipment, and ask that they be marked "Claimant's Exhibit 2."

[Endorsed]: Filed Apr. 3, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [75]

In the District Court of the United States, in and for the Northern District of California, First Division.

(No. 15,156.)

THE AMERICAN IMPORT COMPANY, a Corporation, et al.,

Libelants,

vs.

THE BRITISH STEAMER "SKIPTON, CASTLE," Her Engines, etc.,

Respondent.

(Deposition of Joseph S. Anderson, Taken on Behalf of Libelants.)

BE IT REMEMBERED that on Wednesday, March 25th, 1914, pursuant to stipulation of counsel hereunto annexed, at the office of Messrs. Denman & Arnold, in the Merchants Exchange Building, in the city and county of San Francisco, State of California, personally appeared before me, Francis Krull,

(Deposition of Joseph S. Anderson.)

a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., Joseph S. Anderson, a witness, produced on behalf of the libelants.

William Denman, Esq., appeared as proctor for the Libelants, and Ira A. Campbell, Esq., appeared as proctor for the respondent, and the said witness, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid, did thereupon depose and say, as is hereinafter set forth.

(It is hereby stipulated and agreed by and between the proctors for the respective parties, that the deposition of Joseph S. Anderson may be taken *de bene esse* on behalf of the libelants, at the office of Messrs. Denman & Arnold, in the city and county of San Francisco, State of California, on Wednesday, March 25th, 1914, before Francis Krull, a United States Commissioner for the Northern District of California, and in shorthand by [76] Herbert Bennett.

It is further stipulated that the deposition, when written out, may be read in evidence by either party on the trial of the cause; that all questions as to the notice of the time and place of taking the same are waived, and that all objections as to the form of the questions are waived unless objected to at the time of taking said deposition, and that all objections as to materiality and competency of the testimony are reserved to all parties.

(Deposition of Joseph S. Anderson.)

It is further stipulated that the reading over of the testimony to the witness and the signing thereof is hereby expressly waived.)

JOSEPH S. ANDERSON, called for the libelant, sworn.

Mr. DENMAN.—Q. Mr. Anderson, what is your occupation?

A. The representative of the Apollinaris Agency Company of New York.

Q. What is the business of that company?

A. They are the representatives of the Apollinaris Company of London for the United States of America.

Q. What is the Apollinaris Company of London?

A. A corporation.

Q. What does it do?

A. It handles the output of the Apollinaris spring at Neuenahr, Germany, and the Apenta spring of Buda Pest, Hungary.

Q. How long have you been connected with the Apollinaris Company? A. About 17 years.

Q. Where did you first do business with them?

A. San Francisco. I have occupied the same position all the time as I do now.

Q. Have you ever had any connection with them prior to that time? A. None at all.

Q. Do you know anything about the commencement of the Apollinaris business in this country, in America?

A. All I know is—the first I ever saw of the water

(Deposition of Joseph S. Anderson.)

was in Canada about in 1886. [77]

Q. Is it a common commercial commodity?

A. It is a commercial commodity the world over.

Q. How long has it been on the market?

A. Between 40 and 50 years.

Q. What is Apollinaris water?

A. It is a natural alkaline water; it is carbonated with its own gas.

Q. Have you ever visited the spring itself?

A. Yes, sir, about seven years ago.

Q. Will you describe the process of taking the water from the spring and preparing it?

A. The water as it exists naturally is warm and in order to not lose the gas which would escape were it brought to the surface, the gas is separated from the water at a depth of 50 feet under the ground; the gas is conveyed through pipes to the tanks and stored; the water is pumped into concrete tanks where it stands for three days approximately; it is forced through cold storage into bottling machines, and the gas is again mixed with it, as much as it will take up. It is then put into bottles and crown caps, or other kind of *camps* put on to it, labelled and put into boxes and exported.

Q. Are you a chemist? A. Yes, sir.

Q. How long have you been a chemist?

A. I graduated about 30 years ago.

Q. You say this is an alkaline water?

A. Yes, sir.

Q. What is the quality of this water, if any, as to heating properties?

(Deposition of Joseph S. Anderson.)

A. Of itself it would not heat. There is nothing of a mechanical composition that could cause it to heat itself.

Q. It is a drinking water, is it not?

A. It is a drinking water, yes, sir.

Q. Could it be used as a drinking water if it contained any acid **[78]** properties or heating properties?

A. I merely answered your question. If it contained any acid to a marked degree it could not be used for table water.

Q. Would it have to contain acid to a marked degree to have heating qualities in it?

A. It might be acid and still not heat.

Q. Do you recall a shipment of that Apollinaris water on the steamship "Skipton Castle" which left Europe sometime in the month of December, 1910, and arrived here thereafter on a voyage through the Straits of Magellan? A. I do.

Q. Arriving sometime in the early portion of 1911? A. Yes, sir, right.

Q. To whom was that consigned?

A. Consigned to the Apollinaris Agency Company of New York and reconsigned to J. S. Anderson, San Francisco; that was reconsigned for delivery only for custom-house purposes.

Q. You are the representative of the consignee here? A. Yes ,sir.

Q. Did you examine the waters? A. I did.

Q. Where did you see them?

A. In the Peninsula Warehouse.

(Deposition of Joseph S. Anderson.)

Q. Where is that located?

A. I am not sure whether I examined them on the dock or not; however, I know that I saw it after it was delivered to the warehouse.

Q. Have you any data which would refresh your memory whether you saw them in the warehouse or on the dock?

A. I can tell by looking up my reports in the matter to the Apollinaris Agency Company at the time.

Q. In what manner had they been prepared for shipment?

A. Straw covers inside of the box*e*—each one in a a straw cover.

Q. When you first saw the shipment what was the condition of the boxes?

A. They were wet, stained; some of them rotting.

Q. What was the condition of the straw covers?

A. They were absolutely rotten in many instances, and more or less all wet. **[79]**

Q. What was the condition of the bottles?

A. Some of them—very few of them were in fit condition to market without doing anything to them, but the majority of them that were not broken were wet and the labels destroyed; in many instances completely off of them. Some of the cases were in such a condition that you really could not tell what was in there at all; between broken glasses, rotted straw covers there was hardly any bottles,—perhaps one or two left in a case that were intact.

Q. Do you remember about how many cases there

(Deposition of Joseph S. Anderson.)
were in all of that shipment?

A. I do not remember; about a thousand cases.

Q. That is more or less?

A. More or less; it is so long ago I do not recollect.

Mr. DENMAN.—The exact quantities and the proof of damage will be made at the reference when or if the reference be ordered.

Mr. CAMPBELL.—At this time we ask that the bill of lading be produced.

Mr. DENMAN.—Q. Didn't you surrender the bill of lading in order to get the shipment?

A. I am not sure whether I did at that time, now they demand it; at that time I am not certain. I have not got the original. The original we surrendered to the custom-house. I doubt whether I ever got an original. I know one copy is surrendered to the custom-house.

Q. Have you the original bill of lading?

A. No, sir.

Q. Do you remember whether there was one or two bills of lading? A. Two come to me.

Mr. DENMAN.—They are in the custom-house, Mr. Campbell; if you ask me to make any admission concerning the contents of the bill I will be glad to.

Mr. CAMPBELL.—Have you the second copy that was given Mr. Anderson?

Mr. DENMAN.—I thought I had it. I find I have in the other cases in which Mr. Anderson is not interested. [80]

The WITNESS.—It is possible the correspond-

(Deposition of Joseph S. Anderson.)

ence will show. I may have surrendered my copy with the claim, I very generally do.

Mr. CAMPBELL.—Q. Will you search your files to see if you have your copy still?

A. (Addressing Mr. Denman.) Didn't I surrender my correspondence to you in that case?

Mr. DENMAN.—I have some of your correspondence here; I have not got those bills.

The WITNESS.—I do not think I have got anything connected with the thing at all.

Mr. DENMAN.—Q. Did you examine any of the broken bottles?

A. Yes, sir.

Q. What type of bottles were they?

A. They were the regular bottles that are being used at the present time and have been used.

Q. Have you ever had any shipment of those by sea from Europe?

A. We are receiving them right now, right along.

Q. For how many years have you been receiving them from Europe by sea?

A. We have been receiving them during the entire time, 17 years, I have been with them.

Q. Have you ever had any shipment from Europe arriving in the condition that this shipment arrived in?

A. Never in as bad a condition as that and the only other shipment that we ever had that could be compared with it at all was a shipment that was brought by one of the steamers of the Royal Mail

(Deposition of Joseph S. Anderson.)
Packet, I believe, to Salinas Cruz, thence by the Tehauntepac Railroad, and by one of the American-Hawaiian steamers to this port, and that shipment we found to be in very bad condition, bottles broken, and we discovered that it had been kept at a port on the Isthmus which I believe was Salinas Cruz for about 30th days at a galvanized warehouse, and the exposure there caused it to blow up.

Mr. CAMPBELL.—Q. That is purely what somebody else has told you?

A. The discovery was made from the American-Hawaiian Steamship Company under admissions themselves. [81]

Q. It is not original knowledge with you, it is knowledge you have obtained from other sources?

A. I was not there.

Mr. CAMPBELL.—We ask that be stricken out as hearsay.

Mr. DENMAN.—Q. You never had any other shipment other than the American-Hawaiian shipment that has arrived with the bottles blown up as in this case?

A. No, sir, none.

Q. How many shipments in all do you suppose you have had that have come around South America in that time? A. Between 200 and 250.

Q. Could the injuries which these bottles suffered have been incurred prior to the goods being stowed on the ship and still the packages not have shown them on the outside? A. I don't think it possible.

Q. Could you tell from an examination of the

(Deposition of Joseph S. Anderson.)

straw what had occasioned the injury to it?

A. I could not.

Q. Would ordinary rotting have done it?

A. We could tell that the injury was caused by water and the straws rotten.

Q. Well, would ordinary water damage to the straw be sufficient to put it in the condition which you found it?

A. In this instance there seemed—the condition of the straw covers seemed to be that there was some outside agent more than ordinary water because the straw covers were contracted and in a more rotted condition then I ever saw them before; ordinarily the straw covers are—while very much discolored and sometimes rotten they remain intact around the bottom. In this instance they were ro very rotten and off the bottom.

Q. When you say ordinarily, you mean ordinarily when they are damaged at all?

A. Ordinarily where they are damaged from water.

Q. From your knowledge of chemistry and your familiarity with the Apollinaris water what would you say was the occasion *to* the injury of the bottles as you found them in the warehouse or wharf after their arrival in San Francisco? **[82]**

Mr. CAMPBELL.—Objected to as called for the conclusion of the witness.

A. These bottles were broken and in a different way to a bottle that is smashed or found broken in cases such as we frequently come across owing to

rough handling. We very often find shipments, especially when they have been handled from ship to ship on account of damage to the ship across the Tehauntepac, or where handled several times there is quite a loss from breakage, but those bottles are generally on the bottom or top and the bottle broken in small fragments. On this ship the bottles were broken, very many of them, by the side being blown out, and it appeared to me that the damage was caused by expansion and the expansion caused by heat.

Q. What is the upper limit of temperature at which it is deemed safe to stow or store Apollinaris water?

A. A case of water as it is packed would stand for a time, for instance, out on a sidewalk for shipment or having been delivered and put out on a sidewalk—we ship right along to points where the temperature, like Sacramento in the summer-time, where on a dray out on the sidewalk for a short time it might be exposed to 115, or I presume it might be 115 in the shade and the temperature is still higher; we would make those shipments right along and no trouble, but if that case were left in that sun until the contents of the bottle got to 115 or 120 at least some of those bottles that were filled pretty well up would be apt to blow up on account of the expansion of the water and gas.

Q. What would you say was a safe limit that you could heat the bottles to and not have danger of such explosion?

(Deposition of Joseph S. Anderson.)

A. I have never made a test of that, but I would say around 120 that they would be apt to blow up. They might blow up at less than that.

Q. Now, what types of bottles do you carry this Apollinaris water in?

A. We import two shapes, one called the Bordeaux bottle, which [83] is the wine bottle, the wine-shaped bottle; the other shape is what is ordinarily called the Vichy-shape bottle, which is the same shape as beer is bottled in, a slope bottle.

Q. Are you using both shapes now?

A. Yes, sir, receiving them right along.

Q. Everything going on this voyage around South America?

A. Both of them; nearly every boat carries a consignment of both shapes.

Cross-examination.

Mr. CAMPBELL.—Q. Mr. Anderson, what is the reason for their passing the water through cold storage before it is put into the bottling machines prior to the time that the gas is again put back into the water?

A. Because carbonic acid gas is almost impossible to mix it with anything but cold water; if you go to mix it with warm water it will not mix in with it.

Q. Then this water when bottled is bottled at low temperature? A. At low temperature.

Q. And that is for the purpose of confining the gas to the water? A. To the water, yes.

Q. And as the temperature of the water is in-

(Deposition of Joseph S. Anderson.)

creased above that *water* which it is bottled the water tends to throw off the carbon gas?

A. The only explanation that I can give of that is this: That if you open a bottle of any carbonized beverage, whether it is champagne or water, if it is at all warm, that is say 85 or 90 degrees, when you open it the cork will fly and the water and gas will come out of it; whereas had that bottle been at a colder temperature, say at 50 degrees, you could open it without it flying up; and the time you take the cork, if the gas is mixed in with the water, whether cold or hot, it cannot fly, it is inside the bottle.

Q. But as the temperature of the water increases above that at the time when it was bottled the pressure on the bottle would be [84] increased?

A. Yes, sir.

Q. By the tendency of the gas to be thrown off?

A. Yes, sir, there is a greater strain on the bottle the higher the temperature goes.

Q. Then if this Apollinaris water was bottled at that low temperature and was shipped to the port of loading in the winter-time in Europe, and was afterwards stowed in the hold of the ship which passed through tropical climes, or if the hold of the ship was at a higher temperature than the winter weather at the port of loading the pressure on these bottles would increase?

A. I could not tell you at just what point it would begin to increase, but the strain on the bottle between a temperature of 50 degrees and 90 or 100

(Deposition of Joseph S. Anderson.)

would be very much *great* at 90 or 100.

Q. You own judgment is, however, the bottles would not *blow until* a temperature of about 120 degrees is reached?

A. I saw offhand without knowledge of it they would not stand 120, but how much lower than that I am not prepared to say.

Q. Would that require a temperature which would raise the temperature of the water itself to 120 degrees?

A. The temperature of the water would have to be raised in order to *blow the* bottle.

Q. Would *that* take any considerable period of time to raise the temperature in 500 cases which were stowed together?

A. I could not tell how long it would take to do it. If you put a case of that in a room of 120 degrees it would not take very long, a few hours would do it.

Q. Your own judgment then is—

A. (Intg.) In line of what you have asked with regard to these bottles, they are filled at this very low temperature, or whatever it may be, at a temperature somewhere around 40; they are all stowed upon the ground for several days before being put in straw covers [85] so that if any bottles are weak or anything else would be apt to blow up under ordinary conditions will blow up before they are put in straw covers at all.

Q. Whereabouts on the ground?

A. Stowed right on the ground close to where they are bottled at the springs.

(Deposition of Joseph S. Anderson.)

Q. In the open air?

A. No, sir, inside the building.

Q. Are those buildings heated as a rule?

A. I do not think there is any heat in them at all.

Q. That test would depend upon the temperature of the air itself? A. Yes, sir.

Q. And the temperature of the air in the winter season over there would be lower than the temperature of the air in the summer season?

A. They do not bottle in the winter season.

Q. Won't they bottle in December?

A. I do not think it is possible. I know there are several months in the winter-time they do not bottle at all; the cases are brought down to Antwerp*t* and put in warehouses for shipment because they cannot bring them down the Rhine; they cannot work at the spring at all.

Q. You do not know how long these bottles had been stowed in warehouses at Antwerp*t* prior to shipment on this vessel?

A. I believe my records will show that the same course was adopted—I cannot answer that question because I have not got my data here; if I were to look up my records it will show that this particular shipment was brought down the Rhine and delivered from the Rhine boats on to the wharf or brought into the steamer. That is the usual mode of procedure.

Q. Then, if that were true they were bottles which had probably been bottled at the springs prior to shipping down the Rhine?

(Deposition of Joseph S. Anderson.)

A. Bottled within 30 days prior to delivering those.

Q. That would be the winter season in that country?

A. Not in November; if they were delivered ex-Rhine boat they would [86] have been bottled in cold weather; if bottled ex-warehouse it might have been 30 days.

Q. If bottled within 30 days and the test you have described of standing on the ground they would not meet with the same tests as when the water had been bottled in the summer months when the temperature was higher?

A. I presume they would not. As I say, I have no knowledge of when those bottles were actually bottled, whether 30, 60 or 90 days before.

Q. When this shipment arrived and you examined it you found the damage to be of three kinds. First, that the bottles were broken, is that true?

A. Yes, sir.

Q. Secondly, that the straw covers were rotted?

A. Yes, sir.

Q. That is the straw covers and wrappers around the bottles? A. Yes, sir.

Q. And the wrappers or labels whichever you may call them were destroyed and stained and some of them damaged so they could not be used at all. That the damage was of three kinds; first, the breakage of bottles; the rotting of the straw covers and wrappers, and staining or damage of the paper wrappers or labels on the bottles?

(Deposition of Joseph S. Anderson.)

A. That is right.

Q. Now, you said that the water was shipped in two kinds of bottles, the Bordeaux bottle and the Vichy bottle? A. Yes, sir.

Q. Which of the two kinds of bottles was it that you had made complaint to your principals about using?

A. I had complained to them about using the Vichy bottle for this country. The Vichy bottle is the usual ordinary shape shipped to the United States. The Bordeaux is only shipepd to San Francisco. I complained about the Vichy bottle, I did not want it here at all.

Q. Was not your complaint based upon the fact that you found that one style of bottle broke more easily than the other? **[87]**

A. No, sir, the complaint was because the Bordeaux bottle was brought to this country for the reason when it is empty it can be filled with wine, and it was sold for $1.65 a case when empty, while the other bottle was valueless practically, nobody wanted them, and the value of the bottle was because it was a Bordeaux-shape bottle and could be filled with California wines and sold to the wine people.

Q. If you will carefully refresh your recollection and see if you cannot recall a conversation with Mr. Bishop in which you told him that one type of bottle or the other you had found to be *a*ubject to greater breakage.

A. In this particular shipment it shows that the

(Deposition of Joseph S. Anderson.)

Vichy-shape bottle had a much greater breakage than the other.

Q. Didn't you tell him at that time in your conversation with him that it had been your experience from these shipments that that type of bottle *was easily* broken than the Bordeaux, and how you had complained to your principals about shipping the water in those bottles?

A. If I ever made a remark of that kind it was on account of the packing of them, they were packed different, we had to make some change in the way they were packed in the case; there would be breakage from handling.

Q. That was because your experience has shown you in the shipment of the water in Vichy bottles they were subject to greater breakage than in Bordeaux bottles? A. If roughly handled.

Q. Had you not made complaint to your principals against the use of the Vichy type of bottle because of the breakage which you had experienced?

A. I made the complaint to them about shipping them; they had showed a greater breakage on the outside than the Bordeaux bottle, and they would have to change their style of packing or else put heavier covers on them, they did not seem to stand their shipment as well as the Bordeaux bottles. That is, the breakage being [88] in that extent from the rough handling in shipment.

Q. You made no contention then that there was any of this breakage due to rough handling?

(Deposition of Joseph S. Anderson.)

A. I would not say there was none of it.

Q. Is there any part of it which you can point to to-day which you would say was due to rough handling?

A. Collectively speaking, I would say this damage was not caused by rough handling for the reason if a case is roughly handled the breakage is on the outside, on the bottom or top. There is only a straw cover between the bottle and case and a violent knock would break it. In this case the breakage was just as bad in the center as it was on the outside, that applied to both shapes of bottles.

Q. That breakage you attributed to a heat that was extraneous to the bottle itself?

A. I do not believe it possible to heat the water up from anything within itself. That is I mean Apollinaris water would stand in ordinary temperatures or any temperatures so far as that is concerned; there is no chemical composition in it that would cause it to heat up.

Q. Is it your belief that this breakage of the bottles was caused by a heating of the water in some way?

A. I believe it was caused by the heating of the water in the bottle.

Q. And that heat was heat that was extraneous to the bottle itself? A. Some outside heat.

Q. Outside heat? A. Outside heat.

Q. Heat that might be termed extraneous to the bottle that was applied to the bottle?

A. I don't know what sort. There may have been

(Deposition of Joseph S. Anderson.)

some heating up. I don't think it could be possible to cause it from the contents of the bottle, in fact I am sure it could not, unless something from the outside that caused that bottle to heat up,—subjected to a strong heat.

Q. The result of the breaking of the bottles was a waste of the [89] mineral water itself?

A. Waste of the bottles and water.

Q. Waste of the bottles and the mineral water in the bottles? A. Yes, sir.

Mr. DENMAN.—We admit that to be true.

Mr. CAMPBELL.—Q. There is hardly ever a shipment arriving by ship in which you do not have breakage of your bottles, is there?

A. Most shipments we have so small a breakage that we never think of making a claim for it. We have a few rattling cases which are repacked; five per cent will be rattling and show some breakage; in opening those cases we find one and sometimes two broken bottles; we do not have occasion to make a claim for any damage—

Q. (Intg.) I am not speaking about claims, I am speaking about the breakage of bottles?

A. It is so very small we do not make claim.

Q. Every shipment you receive you find breakage amongst your bottles?

A. Sometimes we will have occasionally five per cent rattling that we will have to repack and we find one or two bottles in the case broken of the one found rattling.

Q. Have you practiced chemistry since you have

(Deposition of Joseph S. Anderson.)
been the agent of this water?

A. I have not been actively engaged.

Redirect Examination.

Mr. DENMAN.—Q. Mr. Anderson, do you know a commercial water known as Vichy? A. Yes, sir.

Q. Where does that come from? A. France.

Q. What type of bottle is that shipped to this port in?

A. It comes in approximately the same shape bottle as the Vichy or slope neck that the Apollinaris comes in except that it has a larger bottom, a little different shaped bottom; it is a flat bottom while this bottle has got a concave bottom.

Q. Do you know water called the Kaiser water?

A. The Kaiser water is a German water and to all intents and purposes it is almost identical to the Apollinaris. [90]

Q. Where does that come from? A. Germany.

Q. Anywhere near the Apollinaris?

A. I could not tell you where the spring is; I know the water very well.

Q. What type of bottle does that come in?

A. I know it used to come in a Bordeaux bottle and I believe it comes in a slope neck bottle.

Q. That is on this voyage you mean?

A. On this voyage.

Q. Now, the Apenta water you have, where does that come from? A. Buda Pest, Hungary.

Q. Was there a breakage in the bottles also?

A. Some breakage, not so much.

Q. Did you notice the character of the breakage?

(Deposition of Joseph S. Anderson.)

A. I cannot recall just what the breakage was.

Q. You have data though where you can show the amount of that breakage, have you not?

A. Yes, sir.

Q. Let me ask you, where this water was stowed would make it more likely to break?

A. If exposed to a high heat then quickly exposed to cold I would say that it is possible that the glass will crack from such a change.

Q. Suppose you have this situation, that the heat of the water is somewhere between 100 or 120 degrees and the bottles so heated are exposed to a blast of air around 50 degrees of temperature?

A. I would say that it would cause the glass to break.

Q. You would expect to find breakage under those circumstances?

A. I would expect to find breakage under those conditions.

Q. What part of the ship should these cases be stowed in?

Mr. CAMPBELL.—I would like to ask the witness whether he considers himself an expert on stowage.

Mr. DENMAN.—Examining the temperature.

A. The instructions of the Apollinaris Company for the storing of [91] their goods is they should be stored under the water line fore and aft.

Q. What is the purpose of having them under the water?

A. On account of keeping cool and far away from the boilers especially on steamers.

(Deposition of Joseph S. Anderson.)

Recross-examination.

Mr. CAMPBELL.—Q. You know of no such instructions having been given in this case, do you?

A. Generally speaking.

Q. I am asking you about this case?

A. I do not know anything about instructions.

Q. Do you know any particular ship to which those instructions have been given?

A. I cannot recall now, but I have evidence of it; and can get evidence of it.

Q. You would not attempt to say that instructions had been given to this line of vessels?

A. I would not. I only speak of that generally to show the shipping instructions are to keep it fore and aft under the water line and away from the boilers so as not to be subject to heat.

Q. What you mean to say is that *this your* desire that it be stowed in the coolest portion of the vessel?

A. In the coolest portion of the vessel and away from the boilers.

Q. And as I understand it where it would not be exposed to changes of temperature?

A. Not rapid changes.

Q. Is that contained in the instructions?

A. I do not know what the instructions were regarding the shipment, making this shipment except what is contained in the bill of lading.

Q. You never personally expressed any desire about having it stored where it was not subject to changes of temperature?

A. I do not attend to the shipping at all.

(Deposition of Joseph S. Anderson.)

Further Redirect Examination.

Mr. DENMAN.—Q. It would be true of all carbonated water? [92]

A. All carbonated waters; anything carbonated should be stored in a cool place, whether champagne or water.

Q. And is the same thing true in regard to sudden changes of temperature?

A. Any highly carbonated or highly charged liquid.

Q. You are about to leave the State of California?

A. Yes, sir, I am.

Q. How long are you to be gone?

A. I expect to leave to-morrow and to return about the 20th of April.

Further Recross-examination.

Mr. CAMPBELL.—I want to ask you a little bit more about this change of temperature that counsel has suggested to you.

Q. What do you mean by change of temperature, that it may be brought about by a contact with the boilers or heat from the vessel itself, or that bottles should be stowed in the vessel where they can best maintain an even temperature considering the climatic conditions through which a ship passes on her voyage?

A. I mean it should be stored in such a way that it would not be exposed to extreme heat in any way.

Q. Which is the coolest part of a vessel, and then must maintain an even temperature which can be gotten? A. Yes, sir.

(Deposition of Joseph S. Anderson.)

Mr. CAMPBELL.—That is all.

Mr. DENMAN.—Q. Had you ever had experience prior to your conversation with Mr. Bishop regarding the breakage of bottles, of any type of bottles blowing up which would lead you to tell him that the reason for recommending the use of Bordeaux bottles? A. I don't understand you.

Q. Had you ever had any experience prior to the time of the blowing up of the bottles?

A. No, sir, this was my first experience of the bottles blowing up from heat.

Q. At the time you had this conversation with Mr. Bishop you never had any experience with heat?

A. I don't remember having the conversation with Mr. Bishop. I say though that if I did state anything regarding the breakage on account of one type of bottle [93] as compared with another it was that I found that the slope neck bottle did not ship as well as the other one when exposed to rough handling, and we afterwards put on heavier straw covers on them, and that was overcome entirely.

Q. Have you been using that type of bottle since then?

A. Shipping them almost exclusively since then, slope neck.

Q. Has there been any change in the pressure of strength of the bottle?

A. Just the same; made at the same factory.

Mr. CAMPBELL.—Q. You have had frequent experience of your bottles blowing the corks?

A. We have not used the corks for about 10 or 12 years.

(Deposition of Joseph S. Anderson.)

Q. Whatever you stop the bottles with?

A. We had trouble with the crown caps rusting right through and blowing the water, getting out in that way. That was overcome some year ago by varnishing the caps and making them water-proof.

Mr. DENMAN.—Q. As a matter of fact, you are the inventor of that.

A. I was the originator of that myself.

Q. How long ago was that?

A. About seven years ago. We even now dip them in paraffin to avoid water affecting them in just such instances as this; that if they happen to get wet through any trouble of this kind we will not have the rusting of the caps that we would have if subject to this moisture if they had not been protected, and I would like to say that these very caps that came on this particular shipment were protected.

Mr. CAMPBELL.—Q. What effect would vibration have upon the bottles?

A. Like on a railroad or boat?

Q. Yes. A. No effect.

Q. From the vibration of the engine?

A. No effect.

Q. Don't you desire to keep them away from the engine where they are not subject to vibration?

A. The reason we keep them away from the engine is because of the heat; it is not the engine, it [94] is the boiler.

Q. You want to get them as far from that as possible? A. From the boiler?

Q. Yes.

(Deposition of Joseph S. Anderson.)

A. Far enough away so that the heat of the boiler—

Q. (Intg.) Will not reach them?

A. There is a channel of air through there and as long as they do not set up an excessive heat they will stand an ordinary heat. [95]

United States of America,
State and Northern District of California,
City and County of San Francisco.

I, Francis Krull, a United States Commissioner for the Northern District of California, do hereby certify that the reason stated for taking the foregoing deposition is that the testimony of the witness Joseph S. Anderson is material and necessary in the cause in the caption of the said deposition named, and that he is about to go away, and will be more than one hundred miles from the place of trial at the time of trial.

I further certify that on Wednesday, March 25th, 1914, at 4:00 P. M. I was attended by William Denman, Esq., proctor for the libelants, and by Ira A. Campbell, Esq., proctor for the respondent and by the witness who was of sound mind and lawful age, and that the witness was by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in said cause; that said depositions was, pursuant to the stipulation of the proctors for the respective parties hereto, taken in shorthand by Herbert Bennett, and afterwards reduced to typewriting; that the reading over and signing of said deposition of the witness was by the aforesaid stipulation expressly waived.

(Deposition of Joseph S. Anderson.)

I further certify that I have retained said deposition in my possession for the purpose of delivering the same with my own hand to the United States District Court for the Northern District of California, the court for which the same was taken.

And I further certify that I am not of counsel nor attorney for any of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption. [96]

IN WITNESS WHEREOF, I have hereunto subscribed my hand at my office in the city and county of San Francisco, State of California, this 31st day of March, 1914.

[Seal] FRANCIS KRULL,
U. S. Commissioner, Northern District of California, at San Francisco.

[Endorsed]: Filed Apr. 2, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [97]

In the District Court of the United States, in and for the Northern District of California.

THE AMERICAN IMPORT COMPANY, a Corporation, et al.,

Libelants.

vs.

The British Steamer "SKIPTON CASTLE," Her Engines, Etc.,

Respondent.

(Depositions of Lambert Page and J. Nelson Craven Taken on Behalf of the Respondent.)

BE IT REMEMBERED that on Tuesday, May 2d, 1911, pursuant to stipulation of counsel hereunto annexed, at the office of Messrs. Page, McCutchen, Knight & Olney, in the Merchants Exchange Building, in the City and County of San Francisco, State of California, personally appeared before me, Francis Krull, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., Lambert Page and J. Nelson Craven, witnesses produced on behalf of the respondent.

William Denman, Esq., appeared as proctor for the libelants, and Ira A. Campbell, Esq., appeared as proctor for the respondent, and the said witnesses, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth.

(It is hereby stipulated and agreed by and between the proctors for the respective parties, that the depositions of Lambert Page and J. Nelson Craven may be taken *de bene esse* on behalf of the respondent at the office of Messrs. Page, McCutchen [98] Knight & Olney, in the city and county of San Francisco, State of California, on Tuesday, May 2d, 1911, before Francis Krull a United States Commissioner for the Northern District of California and in shorthand by Clement Bennett.

It is further stipulated that the depositions, when

(Deposition of Lambert Page.)

written out, may be read in evidence by either party on the trial of the cause; that all questions as to the notice of the time and place of taking the same are waived, and that all objections as to the form of the questions are waived unless objected to at the time of taking said depositions, and that all objections as to materiality and competency of the testimony are reserved to all parties.

It is further stipulated that the reading over of the testimony to the witnesses and the signing thereof is hereby expressly waived.)

[Deposition of Lambert Page, for Respondent .]

LAMBERT PAGE called for the respondent, sworn.

Mr. CAMPBELL.—Q. Mr. Page, are you employed on board of the British steamer "Skipton Castle"? A. Yes, sir.

Q. In what capacity? A. Chief officer.

Q. How old are you? A. 34.

Q. How long have you been going to sea?

A. 20 years.

Q. What trade have you been in *an* an officer of a vessel?

A. In the East Indian trade, and North Atlantic trade; South American trade; also around on this coast several times, and around to South America; Red Sea; Persian Gulf.

Q. In what class of vessels have you been to this coast before? A. Sailing vessels.

Q. How long have you been in steamers?

A. About 14 or 15 years; 15 years; between 14 and 15 years. [99]

(Deposition of Lambert Page.)

Q. Were you chief mate on the last voyage of the "Skipton Castle"? A. Yes, sir.

Q. From Antwerp to San Francisco?

A. The last voyage from Antwerp, this last voyage.

Q. To San Francisco? A. Yes, sir.

Q. Was that the trip in which the mineral water in baskets was damaged? A. Yes, sir.

Q. Were you present when this cargo was stowed?

A. Yes, sir.

Q. Under whose supervision was it stowed?

A. Under my supervision; also Captain Baines, who is the surveyor of cargoes in Antwerp.

Mr. CAMPBELL.—Mr. Denman, will you admit these photographs. (Pointing.) They were taken under my supervision.

Mr. DENMAN.—Yes.

Q. Have you a plan of the vessel?

A. Yes, sir. I dare say the captain has one. I have not got a plan myself.

Q. There is one on board?

A. Yes, sir, there is one on board.

Mr. DENMAN.—I would like to have that. I will call for that.

Mr. CAMPBELL.—Do you want it this afternoon?

Mr. DENMAN.—I should like it before the ship leaves. You can get it by phone, I imagine.

Mr. CAMPBELL.—We have one that we will produce.

Mr. DENMAN.—I will admit these photographs.

(Deposition of Lambert Page.)

Mr. CAMPBELL.—Q. Do you know, Mr. Page, where the mineral water was stowed? A. Yes, sir.

Q. On board of the "Skipton Castle"?

A. Yes, sir.

Q. Where was it?

A. In No. 1 between-decks, in the fore part.

Q. I will hand you a photograph which is a photograph of the foreward between-decks hold of the "Skipton Castle," No. 1, and which photograph I will ask to have marked Respondent's Exhibit "A" and will ask you if you can show me from the photograph where the [100] mineral water was stowed? A. Yes, sir, exactly.

Q. Whereabouts was it stowed?

A. Up against the ladder, right forward to the ladder; on the fore part of the ladder in the hold between-decks, taken right across the ship, blocked off right across.

Q. That is, it was stowed in that part of the hold which was forward of the ladder? A. Yes, sir.

Q. Extending from side to side of the vessel?

A. Yes, sir.

Q. How close to the upper deck was it stowed?

A. Anything between 9 inches and 15 inches I should say.

Mr. DENMAN.—Q. The upper deck or the upper deck beams?

A. You mean from the main deck?

Mr. CAMPBELL.—Q. Yes.

A. 9 to 15 inches I should say.

Q. Was it stowed up against the deck beams?

(Deposition of Lambert Page.)

A. Close to the beams; within an inch or two.

Q. Was it stowed between the deck beams?

A. No, sir, not between the deck beams.

Q. What was the width of those deck beams?

A. About 8 or 9 inches.

Q. Where were the baskets stowed?

A. They were stowed right in the hatchway, in the main deck hatchway, with a few baskets in the side under some general goods in the wings. Right in the square of the main deck hatch coamings.

Q. I will hand you what purports to be the stowage plan of the "Skipton Castle" and ask you to look at it.

A. Do you want me to take into consideration everything in this plan?

Q. No, just the forward part; and ask you if that in general shows the stowage plan of the cargo?

A. It does. On the fore part here it was all mineral water. This felting was all abaft of that, in the wings of the hatch coamings and on the after part, [101] all abaft of the cargo, this mineral water. Apparently by this plan we have got mineral water stowed on top of the felt, which was not so at all. That would be very bad stowage in that case.

Q. Were any of the baskets stowed abaft of the hatch?

A. Yes, sir; there were a few stowed abaft of the hatch on top of some general goods.

Q. What was stowed in the square of the hatch.

A. I could not exactly say what was stowed in the square of the hatch, just general goods, felting, and a

(Deposition of Lambert Page.)

few barrels of wool grease on the after end.

Q. Where was the cargo which was stowed in the square of the hatch discharged?

A. In San Pedro.

Q. Was part of the baskets discharged at San Pedro?

A. I am not quite sure about that. I don't remember any going ashore at San Pedro, that is baskets,—yes, there were. I remember now there were some baskets for San Pedro.

Mr. DENMAN.—Q. In this hold?

A. Not in No. 1. In the after hold.

Mr. CAMPBELL.—Q. Was there any means of ventilating No. 1 between-decks hold?

A. Yes, sir; we had ventilators in the hold, and also at sea in very fine weather we used to take a couple of hatches off of the fore part and a couple off of the after end.

Q. Can you point out on Respondent's Exhibit "A" any ventilators?

A. Yes, sir; two. That is all this plan shows.

Q. Take this pen and ink with the figures 1 and 2 the ventilators which are shown there. From where did the ventilators run?

A. From the forecastle-head, through the forecastle-head, and down into the lower hold. [102]

Q. How far below the between-decks, which is the deck shown in Respondent's Exhibit "A," did the lower end of the ventilators extend?

A. Below the between-decks?

Q. Yes. How far below the between-decks?

(Deposition of Lambert Page.)

A. They were flush with the between-decks, the underneath part of the between-decks.

Q. Handing you another photograph, which I will ask to have marked Respondent's Exhibit "B," I will ask you what part of the ship that portrays?

A. No. 1 hatchway, and the forecastle-head, the forward hold.

Q. Are the upper part of ventilators 1 and 2 shown in that photograph? A. Yes, sir.

Q. Will you mark them also 1 and 2?

A. Yes, sir.

(The witness marks the photograph as requested.)

Q. The top of the ventilator which you have marked 2 is seen just over the top of the canvas.

A. Just over the top of the canvas, yes.

Q. When you were coming out on this voyage, were the tops of the ventilators, as shown in Respondent's Exhibit "B," the same as they are indicated now on the photograph?

A. We had the covers off, and also had ventilators shipped on them. The reason why the ventilators are not on now is we are going to load a cargo of lumber, and we are getting everything ready, and plugging all the ventilators up as we are going to carry lumber. If the deckload was to move at all it would sweep all the ventilators away probably.

Q. Is it customary to move the tops of ventilators when you are carrying a deck cargo?

A. Yes, sir, especially a lumber cargo.

Q. I hand you a third photograph which I ask to have marked Respondent's Exhibit "C," and ask you

(Deposition of Lambert Page.)

if you can show me from that photograph the tops of any ventilators which are similar to the tops which were on ventilators 1 and 2 when you were coming out on [103] the voyage? A. Yes, sir.

Q. Just mark that ventilator A, if you will. As I understand it, while on the voyage coming out there were tops put on ventilators 1 and 2 of the same character as the tops shown by ventilator A on Respondent's Exhibit "C"? A. Yes, sir.

Q. Were there any ventilators in the after part of No. 1 between-deck holds?

A. Yes, sir, two ventilators in the after part.

Q. Will you mark them on Respondent's Exhibit "C," if they are shown, 3 and 4? A. Yes, sir.

(The witness marks the photograph as requested.)

Q. How did the air passing down through ventilators 1, 2 and 3 get into the between-deck hold No. 1?

A. Passing down through the ventilators, how did it get into the between-decks?

Q. Yes; what opening was there, if any, in the ventilators?

A. The lower portion of the ventilator was a sleeve and fitted into the upper part onto the upper deck, which left a space all around the sleeve of about three to four inches.

Q. Make me a diagram, if you can, of the ventilator showing how the sleeve fits in. A. Yes, sir.

(The witness draws a diagram as requested.)

Q. Mark what is represented on your drawing as No. 1 between-deck hold? A. Yes, sir.

(The witness draws as requested.)

(Deposition of Lambert Page.)

Q. Now draw a line down through that ventilator and mark the two ends of it with an arrow like this? Mark it down to show where a current of air passing down the ventilators would go so as to get into No. 1 between-deck hold? A. Yes, sir.

(The witness draws as requested.)

Mr. CAMPBELL.—I will offer this in evidence as Respondent's Exhibit "D." [104]

Q. Would the air passing down through the after ventilator into No. 1 between-deck hold pass through the ventilator in the same way as shown by this drawing, exhibit "D"?

A. Yes, sir, exactly the same.

Q. What is the effect of those ventilators, so far as to give you a circulation of air, through the between-deck hold?

A. Simply to keep the hold in an even temperature throughout.

Q. Is there or not a circulation of air through the between-deck hold by reason of those ventilators?

A. Yes, sir, there is circulation right through the hold.

Q. What season of the year did you leave Antwerp? A. In the winter.

Q. In the winter-time? A. Yes, sir.

Q. What course did you pursue in coming out? What course did you follow in coming out?

A. By the way of Grand Canary Island. We made close to Fernando de Noronha.

Q. By the way of the Straits of Magellan?

A. By the way of the Straits of Magellan.

(Deposition of Lambert Page.)

Q. Were there any rapid changes of temperature as you passed from the climate of Antwerp into the tropical climate?

A. Yes, sir, a very marked change.

Q. Was it a change overnight or a slow and gradual change?

A. A slow and gradual change throughout, with the exception of down towards the Straits of Magellan.

Q. How many holds has this vessel?

A. Four holds.

Q. Where is No. 2 hold?

A. No. 2 is situated just in the fore part of the boiler-room and bunkers.

Q. Can you show me approximately on this photograph where No. 2 hold would be?

A. Yes, sir; it extends right from here (pointing).

Q. Draw a line down the side of the vessel as shown on the photograph to indicate the bulkhead separating the holds. Show me the [105] after bulkhead to No. 2 hold.

A. Right here (pointing). That would be about it, I should think.

Q. Can you show me the forward bulkhead of No. 3 hold?

A. Somewhere about there (marking).

Q. Mark the forward bulkhead of No. 2 hold with the figure 5, and the after bulkhead 6, and the forward bulkhead of No. 3 hold 7. A. Yes, sir.

(The witness does as requested.)

Q. What is abaft of No. 2 hold? What part of

(Deposition of Lambert Page.)

the ship is abaft of No. 2 hold?

A. There are two tanks, and also the bunker and boiler spaces.

Mr. DENMAN.—The mate testifies to only four holds. The log seems to show five.

Mr. CAMPBELL.—Q. Has she four or five holds?

A. We call them tanks sometimes; sometimes we do not.

Mr. DENMAN.—All through the log you call them holds, 1, 2, 3, 4 and 5.

Mr. CAMPBELL.—Q. What do you designate in your log?

Mr. DENMAN.—I do not want to get into confusion about it.

A. Sometimes when we have cargo in the tanks we call that No. 3, the small hatchway just abaft of the bridge.

Mr. CAMPBELL.—Q. Where you have designated throughout your log hold No. 3, and have mentioned five holds, what did you mean by hold No. 3?

A. I have only called it No. 3 when we had cargo down there. We have taken no notice of it at any other time. We do not always carry cargo there.

Q. What part of the ship was it?

A. Amidships part.

Q. What do you call it on board your vessel?

A. The deep tanks

Q. Can you indicate on this photograph the position of the deep tanks?

A. Yes, sir; that is the position.

(Deposition of Lambert Page.)

Q. Make an outline of the deep tanks as near as you can.

A. That is it. (Illustrating). [106]

Q. Mark that with the capital letters D–T.

A. Yes, sir.

(The witness does as requested.)

Q. How many of them are there?

A. Two tanks, one abreast of the other.

Q. One abreast of the other?

A. That looks as if one is on the fore part of the other, but one is abreast of the other.

Q. Where you have called them hold No. 3 what do you mean when you speak of hold No. 4 in your log?

A. The after hold, the hold abaft of the engine-room.

Q. The forward bulkhead of which is marked with the figure 4 on Respondent's Exhibit "C"?

A. Yes, sir.

Mr. DENMAN.—Q. No. 5 is the after hold?

A. Yes, sir.

Mr. CAMPBELL.—I will bring that out.

Q. Is this a hold abaft of No. 4? A. Yes, sir.

Q. What do you call that? A. No. 5.

Q. What is the after end of No. 5 hold?

A. The after end is the well.

Q. With respect to what part of the ship is No. 4 hold abaft?

A. The engine-room; immediately abaft the engine-room.

Q. And is there any part of the ship which runs through the lower part of holds 4 and 5?

(Deposition of Lambert Page.)

A. There is a tunnel and shafting, which runs between holds 4 and 5.

Q. What is the size of the shaft tunnel?

A. Approximately it would be 8 feet 6 in height and in breadth about 8 feet 6.

Q. Where does the forward end of that open?

A. Into the engine-room.

Q. Into the engine-room? A. Yes, sir.

Q. State whether or not it is open so that the air from the engine-room will get into the shaft alley?

A. Yes, sir. [107]

Q. You call it the shaft tunnel and shaft alley.

A. The shaft tunnel.

Q. How was this cargo of mineral water stowed? Just describe the stowage of it.

A. The between-decks was dunnaged, dunnaged 4 to 6 feet on the between-decks, and the sides were matted and blocked off square in the forepart.

Q. The sides of the ship were matted?

A. Yes, sir.

Q. When you come to discharge the mineral water did you find any of the boxes themselves broken?

A. None of the boxes were broken, no.

Q. Was the stowage of the cargo itself at all broken? A. No, sir.

Q. How was it with respect to the condition in which it was shipped—the stowage, I am speaking of now? A. Very perfect stowage.

Q. How was the stowage when you arrived here? How did it compare with the stowage when you left on the voyage? A. Exactly the same.

(Deposition of Lambert Page.)

Q. Had any of the tiers of mineral water been thrown over or thrown down? A. None whatever.

Q. When you came to discharge the mineral water did you find any of the bottles themselves broken?

A. No, sir, I did not find any of the bottles broken, but there was quite a lot of the contents of some bottles that had been leaking, and the cases were stained.

Q. Did you open any of the cases to examine them?

A. No, sir.

Q. Did you see the baskets which were discharged?

A. Yes, sir.

Q. What was their appearance? A. Mildewed.

Q. Were the baskets stowed immediately on the between-decks?

A. Not immediately; on top of some cargo.

Q. What kind of cargo?

A. General goods; cases of felting and barrels of wool grease.

Q. How did you use your ventilators on the voyage? [108]

A. We usually had the ventilators on the mast turned to the wind, and the one on the forecastle-head back to the wind.

Q. What effect did that have on the circulation of air through No. 1 between-deck hold? How did it cause the air to circulate?

A. The intake of the after ventilators was blown right through and the forward ventilators being back to the wind brought out the air through the forward ventilators, forced through.

(Deposition of Lambert Page.)

Q. With your ventilators on the forecastle-head back to the wind and your ventilators on the mast leading to the after part of No. 1 between-deck hold turned to the wind, through which ventilators would the fresh air pass into the hold?

A. Through the ventilator at the mast, and drive out all the foul air through the forward ones.

Q. When you were passing through the tropics was there any additional means used for ventilating No. 1 between-deck hold other than the four ventilators?

A. Yes, sir. We used to take out two of the forward hatches and two of the after hatches.

Q. Can you show me on Respondent's Exhibit "B" which hatches you would take off?

A. Yes, sir.

Q. Just draw an outline of the hatches which you would take off?

A. Those were the hatches that were taken off (illustrating).

Q. Mark the forward hatch A and the after hatch B. A. Yes, sir.

(The witness does as requested.)

Q. For what purpose did you remove those hatches?

A. To ventilate the hold; to keep it an even temperature; to keep it from getting heated.

Q. From your experience in ventilating ships will the hold keep cooler by a free ventilation or without ventilation when passing through the Tropics?

A. Free ventilation.

(Deposition of Lambert Page.)

Q. Would you open the forward hatches when you were passing through the Temperate Zone?

A. Certainly. [109]

Q. When you were in the lower latitude would you open these hatches?

A. Not without it was a very fine day.

Q. Did you at any time on the voyage encounter fine days in the lower latitude when the hatches were opened? A. No, sir, we did not.

Q. How close to the forward end of No. 1 hold hatch coaming does the after part of the forecastle-head come?

A. A distance of four feet. The space between the forward part of a hatch coaming to the break of the forecastle?

Q. Yes. A. Four feet.

Q. When you were passing through the Tropics did you use any awnings at all?

A. Yes, sir; the forecastle-head awning was stretched for the benefit of the crew who lived underneath; also we used to stretch an awning on the forward deck so that the crew could sleep at night-time.

Q. What part of the forecastle-head would the awnings stretched over it cover?

A. It would cover the whole of it.

Q. What part of the forward deck would the awnings which you say was stretched cover?

A. It would practically cover all of it, too.

Q. All of it? A. Yes, sir.

Q. Where did you use that? Through what latitudes did you use it?

(Deposition of Lambert Page.)

A. Between 20 north and 20 south.

Q. What region do you call that?

A. The Tropics,

Q. What portion of the ship, or what hold of the ship in your judgment, and based on your exeprience, maintains the most uniform temperature throughout the voyage? A. No. 1, I should say.

Q. What part of No. 1?

A. More so in the between-decks than the lower hold.

Q. As between the between-decks and the lower hold, which in your judgment would maintain the more uniform temperature?

A. The between-decks. **[110]**

Q. What is the reason for your answer?

A. It is not exactly well above the water line. The deck is covered with an awning and also by the forecastle-head, and it does not have the sun's rays penetrating on the deck, during the voyage, as the deck is covered with an awning; and also covered by the forecastle-head; and it is the furthest hold away from the engine, boiler-room and bunker spaces.

Q. Where is the warmest part of the ship?

A. I should say in the after hold.

Q. Why is that?

A. Because they are immediately aft of the engine-room and boiler-room spaces.

Q. As the ship is running—

A. (Intg.) —forging away, she is causing a slight head wind the whole voyage.

Q. What effect does that have on the heat from the

(Deposition of Lambert Page.)

engine-room and boilers?

A. It drives it aft, especially through the tunnels.

Q. What do you mean by saying "especially through the tunnels"?

A. Any air that went down into the engine-room and went through the stoke hole and into the engine-room would drive right through the tunnel and come out at a small ventilator at the after end of the tunnel. The air after going down there from the fore part and going through the boiler-room, and then the engines-room, would be very hot by the time it got over to the tunnels.

Q. Where does it pass from the engine-room when it leaves the engine-room?

A. Some of it comes up through the engine-room skylights and some through the tunnel.

Q. And this tunnel is at the bottom of No. 4 and 5 holds? A. At the bottom of No. 4 and 5 holds.

Q. When a ship is working in the sea what portion of the ship is subjected to the greatest vibration?

A. The after end.

Q. Why is that?

A. It is nearest to the propeller. [111]

Q. If a ship is working in the sea what is the easiest part of the ship?

A. I should say the amidships part is the easiest.

Q. That is where the boilers and engine-room are?

A. Yes, sir.

Q. How do the forward holds of the ship compare with the after holds as respects vibration when a ship is working in the sea?

(Deposition of Lambert Page.)

A. I should say that the after end vibrates far more than the forward end. It has to contend with both the sea and the propeller.

Q. Did you encounter any seas on this voyage?

A. Yes, sir; we had some very bad weather at times.

Q. Did you encounter any sea which was sufficient to throw the ship's wheel out of the water?

A. I daresay it could be seen at times vibrating.

Q. Could you feel *by* the vibration at all?

A. Yes, sir, racing.

Q. What effect did that have on the after end of the ship when the propeller would be thrown out of the water?

A. She would vibrate, that is all, shake up.

Q. Does the temperature of the water through which the vessel is passing have any effect on the temperature of the interior of the ship?

A. It would in the case of a vessel passing through very cold water, after having warm water, getting into a very cold stream suddenly.

Q. As you were coming from Antwerp to San Francisco did you pass through waters of varying temperature?

A. Yes, sir. Down south we had it varying a little; down close to Magellan Straits, there was quite a marked difference.

Q. Hot or cold?

A. It was fairly warm when southward of the river Platte. As soon as we made the Magellan Straits it was very cold.

(Deposition of Lambert Page.)

Q. Would that change in the temperature of the water on the outside of the ship have any effect on the temperature in the hold? [112]

A. Yes, sir, a little.

Mr. CAMPBELL.—I offer these photographs in evidence.

Cross-examination.

Mr. DENMAN.—Q. To summarize your testimony so far, it is that you put these carbonated mineral waters up forward first because you thought that was the coolest place? A. Yes, sir.

Q. And second because you thought it had less vibration? A. Yes, sir.

Q. Having a less vibration it would be less likely to set off these carbonated waters? A. Yes, sir.

Q. Especially in view of the fact that they were carbonated, it was well to put them up there?

A. It was the best place in the ship, possibly, for them.

Q. When you were loading these various parcels of cargo at Antwerp what was the temperature of the water, pretty cold? A. Very cold.

Q. All through the time there the temperature ran from freezing up to 45?

A. It was never down to freezing. I should say the temperature would be more or less about 40 degrees.

Q. I suppose the temperature of the water was less than that, was it not?

A. I could not say; I don't remember.

Q. It was pretty cold, though?

(Deposition of Lambert Page.)

A. Yes, sir, pretty cold.

Q. What was the condition of the weather while you were loading there?

A. Damp sultry weather.

Q. It could not be very sultry with a thermometer of 40 or 45 degrees, could it? You mean by that that it was raining?

A. It was not raining the whole time; it was raining some time. It was damp, a light drizzly Scotch mist. We had plenty of rain while we were there.

Q. How long before you left Antwerp had you finished No. 1 between-decks? About a day, was it not? About a day before you left you finished No. 1?

A. I think we had finished it the night before or afternoon before we left. **[113]**

Q. There is a hatch from No. 1 between-decks down into No. 1 lower hold? A. Yes, sir.

Q. That was, of course, covered over?

A. No, sir.

Q. Was that open? A. That was open.

Q. That was open? A. Yes, sir.

Q. During the entire voyage?

A. Yes, sir. There were a few hatches put over, not secured with tarpaulins. The beams were put in the hatchways, and a few of the hatches put over, but no tarpaulins; enough to allow free circulation of air.

Q. Did you have cargo over that? A. Yes, sir.

Q. Was not the cargo stowed—you had felt and general merchandise stowed all over the hatch?

A. All over the hatchway.

Q. So that it was practically tight over there, as

(Deposition of Lambert Page.)

far as cargo could make it?

A. Fairly tight. Only the spaces between the cases, the broken stowage.

Q. What did you have in there? Do you know what I am referring to? I am now referring to the spaces in No. 1 between-decks over the hatch leading to the lower hold.

A. We had crates of felting on the after end, right aft; on the after end of the between-decks were barrels of wool grease and some general goods; and immediately right in the hatch coamings was baskets.

Q. That is to say, between the hatch coamings and the side of the vessel?

A. Right in the upper hatch coaming were these baskets stowed.

Mr. CAMPBELL.—Q. You mean beneath the main deck hatch?

A. Yes, sir, immediately beneath.

Mr. DENMAN.—Q. I see here by the plan that was prepared—

A. There were a few baskets showing where the broken stowage was in the after end.

Q. Are not baskets stowed in this pink space? [114]

A. Yes, sir, a few put in the side; not many; all in the same hatchway to fill it out, there was not quite enough cargo to fill up the hatchway. It was either that, or a few baskets left over from the after hold to fill up the hatchway.

Q. All the cargo that came to San Francisco was in this after portion of No. 1 between-decks aft the hatch?

(Deposition of Lambert Page.)

Mr. CAMPBELL.—All of what cargo?

Mr. DENMAN.—Q. This cargo of baskets. The baskets that were over the hatch itself, they were for San Pedro? A. Yes, sir.

Q. So that all the San Francisco baskets were aft of this hatch here (pointing), stowed abaft; in the center of the between-decks hatch No. 1 hold?

A. The San Francisco baskets were stowed here (pointing) and also in the wings, just a few, two or three on each side.

Q. How many packages of baskets were there?

A. Down in that hold altogether?

Q. Yes.

A. There might have been a hundred.

Q. As a matter of fact were there not nearly 500 packages of baskets there stowed in that hold?

A. No, sir; I am sure there were not.

Q. Were there any baskets stowed on this vessel for San Francisco that were not stowed in No. 1 between-decks?

A. Yes, sir. I am not quite sure now, as I have not got my own plan with me.

Q. You have seen this plan before (pointing)?

A. I have never seen that plan before. It is the first time I have seen it, but I think there were some down in No. 2 hold, as far as I can remember, from my plan, on the after end of No. 2, but I am not sure about that.

Q. Can you get your plan for us so as to be sure about it?

A. Yes, sir; I daresay I could get it. Will you let

(Deposition of Lambert Page.)

me have a [115] look at that plan? (After examination.) It has got general cargo for San Francisco here on the after end of No. 2 hold, in which I think there was some baskets there for 'Frisco. It is called here "general cargo" but I think there were some baskets among that. It is all general.

Q. What precautions do you take to ventilate the cargo while in port, say, Antwerp? Were the ventilator tops on?

A. The ventilator tops are on, and as a rule all the hatches are off when they are loading.

Q. As a rule all the hatches are off?

A. Yes, sir, with the exception of when it is raining, and then the hatches were covered.

Q. What did you stow in No. 1 lower hold?

A. There were a couple of tiers of Oakland pebbles in the lower part of the hold, and also some Pedro iron; above that was stowed bone-flour.

Q. What is the difference between bone-meal and bone-flour?

A. One is a finer grade than the other.

Q. What is the difference in the texture? Can you tell the difference if you look at it?

A. If I can see the two together I can tell the difference between bone-flour and bone-meal.

Q. You could?

A. Yes, sir, if both were together.

Q. What is the difference in the color?

A. Bone-meal is a little whiter; it is bleached; it is finer ground.

Q. How was that stowed in the lower hold, pretty

(Deposition of Lambert Page.)

full, or was there a pretty large space between that and the deck? Was it tight up against the upper deck, or was there a considerable space there?

A. No, sir, there was not considerable.

Q. How much was there?

A. It was stowed up to the beams; just underneath the beams.

Q. Flush with the beams?

A. Flush with the beams, more or less.

Q. That was in bags, or loose?

A. In double bags. Some of it was in double bags, I should say; some was not.

Q. It stows fairly compactly?

A. Yes, sir. **[116]**

Q. It makes a tight stowage? A. Yes, sir.

Q. How long before the vessel left the port of Antwerp did you complete stowing that hold?

A. The lower hold?

Q. Yes.

A. It would be about two days before.

Q. About two days before? A. Yes, sir.

Q. Now, as I understand it, that No. 1 hold was the coolest hold in the ship, was it not?

A. Yes, sir. It ought to be the coolest hold in the ship.

Q. You did everything you could to ventilate all the holds at all times? A. Yes, sir.

Q. From the beginning? A. Yes, sir.

Q. No mistakes made in the ventilation of the ship that you could avoid on that ship? A. No, sir.

Q. You took the hatches off whenever you could?

(Deposition of Lambert Page.)

A. Yes, sir.

Q. I see here all through this "ventilation of holds carefully attended to and mean temperature of holds." I see this noted, for instance, on Sunday, the 19th day of February, *199,* the mean temperature of No. 5 hold is 71 degrees; what does that mean?

A. 71 degrees Fahrenheit.

Q. What does mean temperature mean?

A. The temperature is checked in the morning and also in the evening. If it was 72 in the morning and 70 in the evening, the mean temperature would be 71.

Q. How do you take that temperature, how do you determine it?

A. By the thermometer, with a line attached to it.

Q. Where do you put the thermometer?

A. Down the ventilator.

Q. Forward or aft?

A. We used to take the ventilators on the mast for No. 1 and also the ventilators just on the fore part of the bridge, and all the ventilators abaft.

Q. For No. 1 you took the ventilators on the mast?

A. Yes, sir.

Q. That is to say, you took the temperature at the point of intake, where the air was coming in? [117]

A. No, sir. We lower the thermometer down the hold to the extent of 25 feet more or less; 20 or 25.

Q. I thought you said that cargo was stowed up tight?

A. Through the sleeve of the ventilators.

Q. Then the sleeve of the ventilator is going into the lower hold? A. Yes, sir.

(Deposition of Lambert Page.)

Q. How far down does it go into the lower hold?

A. It cuts off flush with the lower deck.

Q. So that you drop it down to that point?

A. As far as it will go down.

Q. You take the temperature there?

A. Yes, sir.

Q. And take it twice a day? A. Yes, sir.

Q. Morning and night? A. Yes, sir.

Q. What time in the morning?

A. Between 6 and 7.

Q. What time at night? A. Between 4 and 5.

Q. As a matter of fact, all the between-deck spaces are above the water-line? A. Yes, sir.

Q. So that the sides of the vessel would be exposed to the sun? A. Yes, sir.

Q. Your deck top itself was an iron deck top?

A. Yes, sir.

Q. Without any wood on it? A. Yes, sir.

Q. You do not take the mean temperatures while in port when you are loading? It is only when you get out to sea that you take the temperatures?

A. Principally at sea. I do not think I took them in port. I am not quite sure. When we are in port, as a rule, all the hatches are off fore and aft, and discharging is going on, or loading. The whole time we are in port the hatches are off if it is fine weather.

Q. That is the reason you did not take the temperatures while you were in Antwerp, was it not?

A. Yes, sir.

Q. It was raining a good deal of the time there? You had to watch out for your cargo a good deal of

(Deposition of Lambert Page.)

the time? A. Yes, sir. [118]

Q. To keep it covered? A. Yes, sir.

Q. You did not think it necessary to take the temperatures there?

A. No, sir. We took the temperature of some of the cargo that we had.

Q. Were you afraid that some of it would be hot?

A. Yes, sir.

Q. What cargo were you afraid would be hot?

A. Some rags that we had, bales of rags.

Q. What else were you afraid would be hot?

A. That is about all. We used to test these bales every day before we lowered them.

Q. How about the felt?

A. The felt would not get hot.

Q. Now, between 4 and 5 cargo holds, was there any connection below?

A. In what way? Any means of passing through from one hold to another?

Q. Yes. A. No, sir.

Q. I do not imagine that you handled any of this cargo yourself; stowed any of these packages and put them in yourself, as mate? A. No, sir.

Q. That was done by the stevedores?

A. Yes, sir. We superintended it and watched it.

Q. As a matter of fact, the chief man in that is the local stevedore? He is the chief man who stows the cargo?

A. This Captain Baines, he stowed the cargo. The captain and I were also superintending the stowage of it.

(Deposition of Lambert Page.)

Q. I imagine you were there some of the time, weren't you? A. Yes, sir.

Q. When are you going to sea, Mr. Page?

A. I expect to go this evening.

Q. I notice as I look through this book that the temperature of the outside air and the temperature of the cargo seem to go up and [119] down together pretty much? A. Yes, sir.

Q. That is, they vary. If it is cold outside it is liable to be cooler in the cargo, and the reverse? That is true, is it not? A. Yes, sir.

Q. That is due to the fact that where the air and water are colder they cool the cargo, and where the air and water are warmer they warm the cargo?

A. Yes, sir.

Q. That is correct, is it not? A. Yes, sir.

Q. Are you sure you did everything you could to ventilate this No. 1 hold?

A. Everything possible.

Q. While you were loading the vessel in Antwerp?

A. Yes, sir.

Q. And between Antwerp and Hull?

A. Yes, sir.

Q. And between Hull and the Canaries?

A. Yes, sir.

Q. You kept these ventilators on and whenever you could you took the hatches off?

A. Whenever we could we took the hatches off.

Q. And kept your ventilators open all the time you could? A. Yes, sir.

Q. You got as much ventilation as you possibly

(Deposition of Lambert Page.)

could? A. Yes, sir, that was possible.

Q. How do you account for No. 1 hold being 20 degrees warmer than any other hold in the ship?

A. What hold is that?

Q. How do you account for No. 1 hold being 20 degrees warmer than any other hold in the ship? You know what I mean? A. Yes, sir.

Q. How do you account for it?

A. I cannot very well account for it.

Q. You cannot account for it? A. No, sir.

Q. But it was, was it not?

A. I don't know that it was.

Q. This is your log, is it not?

A. Yes, sir, that is my log. I don't remember everything in it.

Q. You don't remember what occurred on the trip?

A. I know there was quite a marked difference at times, but I don't remember 20 degrees. [120]

Q. There was a marked difference for a good many days? A. For a few days.

Q. How many days? A. I could not say now.

Mr. CAMPBELL.—You can examine the log, Mr. Page.

The WITNESS.—It is so long ago.

Mr. DENMAN.—Q. Is it not an unsual thing to find one hold 20 degrees hotter than all the rest, which is the coolest hold in all the ship?

A. It is unusual for a man to remember.

Q. Would that not be a very unusual thing on your ship, when you were ventilating all the holds properly, to find one hold 20 degrees warmer than the

(Deposition of Lambert Page.)

rest? A. Yes, sir.

Q. If that did occur there, you would remember it, would you not? A. I should think I would.

Q. Don't you remember it did occur on the vessel?

A. I know there was quite a big difference. I did not know it was 20 degrees. I did not probably look at what the temperature was.

Q. What was the cause of that?

A. The only thing I can think about it is, it was in bad weather when this change occurred, and the hatches were covered up, had to be battened down. That is the only time I can think of, allowing it to run up in temperatures like that.

Q. Would not all the other hatches be battened down at the same time? A. Yes, sir.

Q. Why should this hold be 20 degrees hotter than the others? There is no explanation for it, is there?

A. No, sir, there is not.

Q. Excepting that there was something in the cargo that was heating? That is the only explanation you have for it? There was something inside heating the cargo?

A. It might have been that she was taking a little water over the forecastle head, and would stand the after hatches being uncovered and not the forward hatches. [121]

Q. The forward hatch would very often have to be covered up on account of taking water?

A. Especially if the wind is ahead; more so than No. 2 or No. 3 or No. 4 or No. 5 hatch.

Q. That is likely to make a difference of 20 de-

(Deposition of Lambert Page.)

grees in the temperature of the holds?

A. That is likely to make a very marked change.

Q. So that when the head wind is on your fore hold is likely to be 20 degrees hotter than the other holds?

A. I would not say 20 degrees. There is likely to be a marked change in the temperature between that hold and any other hold, as it is covered up. I did not think it would be 20 degrees.

Q. That would occur whenever you had a head wind? A. A change in the temperature, yes.

Q. If you find that only occurred during the first 15 days of your voyage, and never occurred at any other time on your voyage, it would indicate it was not a head wind that was doing it, and not the shutting of the ventilators?

Mr. CAMPBELL.—Do you understand the question, Mr. Page

A. I cannot account for it.

Mr. DENMAN.—Q. It did occur in your first 15 days that the temperature went up so that it was from 15 to 20 degrees higher than the other holds, did it not?

A. I don't remember it being 10 or 15 degrees higher. I know once when the hatch was secured the temperature went up very rapidly, and when we noticed this we watched the ventilation and kept the hatches off as much as possible.

Q. When did you discover it? The first day, did you not?

(Deposition of Lambert Page.)

A. I could not say, I don't remember. It is all noted down there.

Q. You noted in here the temperatures that you took, did you not, as you went along on the voyage?

A. They are taken and put down every day.

Q. You find that in shutting up these four ventilators on account [122] of the weather it always heats up that forward hatch more than the others?

A. No, sir.

Q. You do not?

A. No more there than anywhere else.

Q. You have to shut up the four ventilators?

A. You have to shut it up more often than any other hatch.

Q. As far as ventilation is concerned, that is the poorest of all, No. 1 hatch?

A. The regular ventilation of the hold is far better. There are as many ventilators in that small space as there is in No. 2, which is the double the size of hold. There are only four ventilators down in No. 2, still we have the four ventilators of exactly the same size in a hold that is only half size, No. 1.

Q. The ventilators do not do you any good when they are shut up?

A. They do no good when they are shut up.

Q. So as a matter of fact, No. 1 hold is more likely to have rises of temperature than any other hold in the ship on account of the fact that very often when you have bad weather you have to shut up the ventilators?

A. No, sir. I should say there would be more

(Deposition of Lambert Page.)

changes in the after hold when they are covered up, liable to run up much higher.

Q. You have to cover up the ventilators on your fore hold much oftener.

A. Not the ventilators. As a rule the ventilators are turned back to the wind until the weather gets very bad indeed. It is very seldom they are ever covered up. It is only the hatches that are covered up in bad weather.

Q. I see; you almost never cover up the ventilators.

A. Very seldom; they are turned back to the wind.

Q. You testified already you kept the ventilators open from Antwerp to Hull and Hull to the Canaries? That is correct? A. Yes, sir.

Q. You did not have to cover them up between Antwerp and Hull? A. No, sir. **[123]**

Q. Or between Hull and the Canaries?

A. Not as far as I remember. We might have had to cover them up once or twice around Magellan Straits.

Q. That is your business, to watch out for that?

A. Yes, sir.

Q. You will swear that you kept the ventilators free between Antwerp and Hull? A. Yes, sir.

Q. And free between Hull and the Canaries?

A. Yes, sir.

Q. You also made entries in the log-book yourself, did you? A. Yes, sir.

Q. Could you have gotten any more ventilation

(Deposition of Lambert Page.)
into No. 1 between deck space than you did get between Antwerp and Hull? A. No, sir.

Q. Could you have gotten any more ventilation into that space than you did between Hull and the Canaries? A. No, sir.

Q. You did everything you could? A. Yes, sir.

Q. Everything was opened up?

A. Everything was opened up.

Q. Could you have done anything to get any more ventilation in that space than you did at Antwerp while you were lying there? A. Say that again.

Q. Could you have done anything more than you did at Antwerp to get ventilation into that space?

A. No, sir.

Q. I see that you left Antwerp on Wednesday, December 21, 1910? A. Yes, sir.

Q. I notice here you do not enter any temperature on the voyage between Antwerp and Hull. I don't suppose you took it there as it is such a short run.

A. Such a very short run.

Q. That is the reason you did not take it there; that is correct? A. Yes sir.

Q. The first temperature you took was the first day out of Hull?

A. Somewhere about the first or second day. I could not say now. I think the first day would be the day after we left Hull.

Q. I find here on that first day you took a temperature, that No. 1 **[124]** hold had a temperature of 101 degrees?

(Deposition of Lambert Page.)

A. That is correct. That will be correct, what is there.

Q. And the outside air at that time was 52 degrees; that is correct, is it not? A. Yes, sir.

Q. No. 2 hold had a temperature of 83 degrees?

A. Yes, sir.

Q. No. 3 hold had a temperature of 83 degrees?

Mr. CAMPBELL.—Let him see the log, Mr. Denman.

Mr. DENMAN.—Q. That is correct, is it not?

A. Yes, sir.

Q. And No. 5 hold had a temperature of 87 degrees? A. Yes, sir.

Q. And the poop 84 degrees? A. Yes, sir.

Q. Now, the next day, which was the 23d day of December, No. 1 had a temperature of 100 degrees; No. 2 is 84 degrees—you might sit over here, Mr. Page, so that you can look at the book. No. 3 had a temperature of 83 degrees; No. 4, 85 degrees; No. 5, 86 degrees; and the poop 80 degrees; that is correct?

A. Yes, sir.

Q. And the outside temperature ranged from 53 to 57; that is correct, is it not? A. Yes, sir.

Q. Now, the next day No. 1 was 101, was it not?

A. Yes, sir.

Q. No. 2 was 85, was it not? A. Yes, sir.

Q. No. 3 was 84, was it not? A. Yes, sir.

Q. No. 4 was 84, was it not? A. Yes, sir.

Q. No. 5 was 88? A. Yes, sir.

Q. And the poop was 85? A. Yes, sir.

(Deposition of Lambert Page.)

Q. And the temperatures on those days ranged from 63 to 64 outside. That is correct, is it not?

A. Yes, sir.

Q. The next day No. 1 had a temperature of 103?

A. Yes, sir.

Q. No. 2, 83? A. Yes, sir.

Q. A difference of 20 degrees? A. Yes, sir.

Q. And No. 3, 83 degrees? A. Yes, sir.

Q. No. 4, 82 degrees? A. Yes, sir.

Q. No. 5, 88 degrees? A. Yes, sir.

Q. And the poop 86 degrees?

A. Yes, sir. **[125]**

Q. The outside temperature was from 67 to 68?

A. Yes, sir.

Q. The next day—this was Monday, December 26th—No. 1 hold was 110 degrees? A. Yes, sir.

Q. No. 2 hold 85 degrees? A. Yes, sir.

Q. No. 3 hold 85 degrees? A. Yes, sir.

Q. No. 4, 83 degrees? A. Yes, sir.

Q. No. 5, 92 degrees? A. Yes, sir.

Q. And the poop was 87? A. Yes, sir.

Q. The outside temperature ranged from 59 to 72?

A. Yes, sir,—73.

Q. Yes, 59 to 73. That is correct, is it not?

A. Yes, sir.

Q. The next day, December 27th, No. 1 hold was 104? A. Yes, sir.

Q. No. 2, 84? A. Yes, sir.

Q. No. 3, 85? A. Yes, sir.

Q. No. 4, 85? A. Yes, sir.

Q. No. 5 is 93? A. Yes, sir.

(Deposition of Lambert Page.)

Q. And the poop 87? A. Yes, sir.

Q. And the outside temperature 60 to 62?

A. Yes, sir.

Q. Now the next day shows the temperature of No. 1 at 104, does it not? A. Yes, sir.

Q. And No. 5 at 92? A. Yes, sir.

Q. And the other holds 85? A. Yes, sir.

Q. And the outside temperature was from 61 to 64? A. Yes, sir.

Q. That is correct, is it not? A. Yes, sir.

Q. You did not take the temperature of the holds while you were in the Canaries, did you?

A. I might have taken the temperatures, but I did not enter it.

Q. You notice what I am referring to here?

A. Yes, sir.

Q. You knew that was appearing? A. Yes, sir.

Q. You know that a difference of from 20 to 25 degrees existed there? A. Yes, sir.

Q. How do you account for that? Come on and tell us. How do you **[126]** account for that?

Mr. CAMPBELL.—I object to the statement of counsel, saying "come on." The witness is not refusing to testfy in the case. It leaves an insinuation that the witness is trying to conceal something.

A. The only thing that I can possibly think of is the condensation occurring in the hold caused by the very cold water striking the warmth of the hull—that would not do it, either.

Mr. DENMAN.—Q. How do you account for the

difference between one hold and the other?

A. I cannot account for it at all.

Q. Is there any way to account for it except that the cargo in there was heating?

A. I don't know what to think about it.

Q. When you discovered that, that it was 25 degrees warmer there—110 and 84 being the difference between the two—what did you do?

A. Kept the ventilators and hatches uncovered just as usual and turned to wind as the wind moved.

Q. Did you go down and attempt to open up your cargo so that the air could get it?

A. We opened up the hatch.

Q. When you found there was a difference of 25 degrees, and the cargo was 104, where the outside air was around 55, did you not open up your cargo to let some air in it so that it sould go down below?

A. We opened up the hatch to get it down below.

Q. How can the air get freely down to below with all that cargo between the upper hatch and lower hatch?

A. There are the spaces between the beams right around the ship and also the spar ceiling, which is on the side of the ship; it is also an air passage.

Q. Is there any air passage from the between-decks down? A. No, sir.

Q. So that the only way that the air can get from the upper hatch into the lower hold is through the hatch in the between-decks? **[127]**

A. And the sleeves of the four ventilators.

Q. Did you shift the cargo in any way to let the

(Deposition of Lambert Page.)

air down in there when you discovered there was 25 degrees difference?

A. No, sir, I don't think we shifted any cargo.

Q. Just let it stay there with 25 degrees difference in temperature? A. We kept the hold ventilated.

Q. You had ventilated them for eight days and it still kept up. Did you not take any other precaution?

A. Not that I am aware of. We did not discharge any cargo.

Q. Did you shift any cargo? A. No, sir.

Q. You cannot account for that at all?

A. No, sir.

Q. It is a very extraordinary thing, is it not?

A. Yes, sir, it is.

Q. Did you ever have it happen before in your experience at sea?

A. No, sir, not that I can call to mind now. It might have been done in coal cargoes, but I have never seen it before in general cargo.

Q. It acted like a coal cargo when it heats?

A. Yes, sir, just the same.

Mr. CAMPBELL.—Q. Is that your answer "just the same."

A. I dare say it is just the same.

Q. Do you know?

A. All I know is, if a coal cargo heats the temperature goes up just the same as anything else.

Mr. DENMAN.—Q. You have seen a coal cargo heat in that same way?

(Deposition of Lambert Page.)

A. I don't know about the same way; I have seen them heat up and fire, and we have had to dig down and get at the fire.

Q. You had some pretty hot weather on this voyage. A. Fairly hot weather through the Tropics.

Q. In the hottest weather no other hold got over 90 degrees in temperature on the whole voyage?

A. I don't remember the temperature. It is a long time since I wrote that log-book, not just today. **[128]**

Q. What was loaded in the between-deck space of cargo, No. 5.

A. This is right, as far as I can see. There was San Francisco iron in the wings, which only just covered the deck to the height of about one foot; not more than one foot, right on the after end was the sheep-dip; the baskets right in the square of the hatchway; Vancouver glass in the fore part, also San Pedro glass in the after part of the Vancouver.

Q. What is that (pointing)?

A. There was bone-meal in the wings. I remember there were a few wagons of bone-meal put there.

Q. Nowhere near as much as there was in No. 1?

A. No, sir.

Q. The great body of the bone-meal cargo was in No. 1? Your log shows that in your stowage you spent more time on No. 1 stowing that?

A. There was terrible lot of bone-meal down in No. 4. I don't know there was as much in No. 1 as in No. 4.

Q. Your own cargo plan would show that?

(Deposition of Lambert Page.)

A. Yes, sir, it would show that.

Q. We can have that this evening?

A. Yes, sir, I can get it. No. 1 is a very small hold. No. 4 hold, I dare say must be getting nearly double the size of No. 1.

Q. Of course if you had known that No. 1 was going to heat up in that way you would never have put the mineral water in there, would you?

A. No, sir.

Q. Such a temperature as that is bad for the mineral water, of course.

A. Yes, sir. Why it was stowed there was because it is the coolest part of the ship. We wanted to keep them as far as possible from the engine-room and boiler spaces.

Q. What is the distance from the fore part of the between-decks hatch here (pointing) and the bulkhead forward? How far is that?

A. I could not tell you exactly; 24 to 26 feet.

Q. As a matter of fact, is it not just 20 feet?

A. 20 feet, is it? I could not tell you. **[129]**

Mr. CAMPBELL.—Q. Did you ever measure it?

A. I have measured it, yes.

Q. Do you recall? A. No, sir.

Q. Don't let counsel put the answer in your mouth then. A. I am only guessing at it.

Q. I do not want any guesses, but just to tell the truth.

Mr. DENMAN.—I have no question about this witness not telling the truth. There has not been any suggestion of that kind at all.

(Deposition of Lambert Page.)

Mr. CAMPBELL.—I just want the witness to testify to what he knows.

Mr. DENMAN.—Q. How wide apart are the frames on the side of the vessel?

A. They are two feet, as a rule.

Q. How wide apart are the deck beams?

A. The deck beams are four feet as a rule; not in all cases.

Q. I know that they vary. What is the height of the deck beams above the deck; that is, what is the height of the deck beams of the upper deck above the between decks, the lower end of the deck beams?

A. Shall I say "about."

Mr. CAMPBELL.—Q. In your judgmnt, what is the height of the between-deck holds?

Mr. DENMAN.—Q. In No. 1.

A. Seven feet six to eight feet I should say; seven feet six more or less.

Q. Your ship plan will show these distances, will it not? A. Yes, sir.

Mr. DENMAN.—Will you stipulate, Mr. Campbell, that the width of the vessel on a line across the forward end of the between-decks hatch is 39 feet?

Mr. CAMPBELL.—Yes.

Mr. DENMAN.—And further, that the width of the vessel at the forward end of the between-deck hold was 30 feet?

Mr. CAMPBELL.—Yes. **[130]**

[Deposition of J. Nelson Craven, for Respondent.]

J. NELSON CRAVEN, called for the respondent, sworn.

Mr. CAMPBELL.—Q. What is your name?

A. J. Nelson Craven.

Q. How old are you, Captain? A. 37.

Q. Are you the master of the "Skipton Castle"?

A. Yes, sir.

Q. Were you master of her on her recent voyage from Antwerp to San Francisco? A. Yes, sir.

Q. How long have you been going to sea?

A. Twenty years.

Q. How many years have you been master of ships? A. Eight years.

Q. In what class of vessels have you been master?

A. Eight years master of the same class I am in now.

Q. During that eight years in what ports of the world have you traded?

A. Every port; widely.

Q. Just give us an idea of what ports.

A. Antwerp, Gulf of Mexico, five years; that covers everything. Galveston, Vera Cruz, Tampico, Tampa, Port Arthur, Port Inglis, New Orleans.

Q. What other trades besides the Gulf of Mexico trade? A. In that eight years?

Q. Yes.

A. All the world trade; around the world one voyage; Pacific Steam Navigation Company, six months; West Coast of South America; Royal Mail

(Deposition of J. Nelson Craven.)

Steam Packet Company, time charter, five months.

Q. Were these all cargo carrying vessels?

A. General cargo carrying vessels, fine goods.

Q. Were you in attendance on the ship at Antwerp during the loading of this cargo?

A. Yes, sir.

Q. Where, if you know, was the mineral water stowed?

A. In the fore part No. 1 between-decks.

Q. Handing you Respondent's Exhibit "A," can you indicate to me where that was from the photograph?

A. Yes, sir; around the fore part of that ladder, extending forward.

Q. Toward the collision bulkhead?

A. Yes, sir, toward the chain locker bulkhead.

[131]

Q. And extending from side to side?

A. Extending from side to side and flush with the hatch, across the ship. That means the fore side of the ladder.

Q. On this plan, which is designated "Capacity Plan," just indicate with pen and draw a line.

A. Pen or pencil?

Q. Either one.

A. There it is (illustrating).

Q. Forward of the line marked AA?

A. Forward of the line marked AA, yes.

Q. In the section you have crosslined?

A. In the section I have crosslined.

(Deposition of J. Nelson Craven.)

Q. How was that compartment ventilated?

A. Two forecastle-head ventilators and two ventilators on the after part of the deck fitted on brackets on the mast.

Q. Again referring to Respondent's Exhibit "A," I will ask you if the two posts marked 1 and 2 are the ventilators to which you refer?

A. Yes, sir, those are the ventilators.

Q. Handing you Respondent's Exhibit "C," I will ask you if the two ventilators marked 3 and 4 are the after ventilators? A. Yes, sir.

Q. Through what opening in the ventilators does the current of air passing through them get into the between-decks compartment?

A. Through a sleeve.

Q. I will hand you Respondent's Exhibit "D," which is a drawing made by your chief officer, and ask you whether or not that correctly portrays the sleeve or opening?

A. That is it. There is a short sleeve that runs a short distance into the ventilators.

Q. Where does the continuation of that sleeve down run? A. To No. 1 lower hold.

Q. Where were the baskets stowed?

A. The baskets were stowed in No. 1 hatch and slightly inside of the wings of No. 1 hatch. That means they were stowed last, and one broken space that was left in [132] the hatches or to the wings was filled in with baskets.

Q. What was stowed in the square of the between-deck hatch? A. I could not tell you.

(Deposition of J. Nelson Craven.)

Q. What character of cargo was it?

A. It was general cargo throughout.

Q. Handing you Respondent's Exhibit "B" I call your attention to the two pipes, the ends of which are marked 1 and 2, and ask you what they are?

A. Two ventilators at the forecastle head.

Q. Are those the upper ends of the ventilators marked 1 and 2 in Respondent's Exhibit "A"?

A. Yes, sir.

Q. Were the tops of the ventilators on this voyage maintained in the same condition as they are shown in Respondent's Exhibit "D"?

A. No, sir; the tops were on. The ventilator proper was shipped.

Q. With the ventilators proper on the ventilating tubes marked 1 and 2; I will ask you whether or not the ventilator then had the same appearance as the ventilator marked A on Respondent's Exhibit "C"? A. Yes, sir, a facsimile ventilator.

Q. Now describe to us the way in which the between-deck hold No. 1 was ventilated on the voyage out there?

A. At times there were two, and mostly four hatches lifted off of the hatches. That is, there were two hatches raised at each end.

Q. I hand you Respondent's Exhibit "B," and I will ask you whether or not the spaces shown by the ink lines and marked A and B represent the position of the hatches which were removed?

A. Yes, sir, that is correct.

(Deposition of J. Nelson Craven.)

Q. During what kind of weather did you remove these hatches?

A. In fine weather wherever possible.

Q. In what way did you use the ventilators themselves?

A. In a way common to the cargo which means that you ventilate the cargo as much as possible whenever permissible.

Q. Describe to us how you would regulate those ventilators? **[133]**

A. Head to wind on one ventilator and back to the wind on the other, allowing a current of air to pass through them.

Q. Which of the two sets of ventilators did you customarily turn to the wind?

A. According as the weather would allow.

Mr. DENMAN.—Q. Which is the intake, the after or forward?

A. That depends on how you turn it. In fine weather the forward one is; in bad weather the after one, which means that in dirty weather the forward one would be back to the wind.

Mr. CAMPBELL.—Q. Did you turn both sets of ventilators to the wind? A. No, sir.

Q. Did you ever do that? A. No, sir.

Q. One set back to the wind, and one set facing the wind? A. Yes, sir.

Q. What was the purpose in turning them in that way?

A. Giving them ventilation; otherwise they would be opposing forces.

(Deposition of J. Nelson Craven.)

Q. What would be the effect on the air in the compartment? A. Under what circumstances?

Q. In turning one set of ventilators to the wind and one set from the wind?

A. To give a free current of ventilation.

Q. Would it have that effect on the air in the compartment? A. Yes, sir.

Q. Does the forecastle head extend over the greater part of the between deck space in which the mineral water was stowed?

A. It extends three to four feet less; it is simply a passage between them.

Q. That is the distance between the forward side of the hatch coaming and the break of the forecastle-head is about 3 feet 6?

A. 3 feet to 3 feet 6; that is rough guessing.

Q. In passing through the Tropics was there any additional protection [134] from the sun's rays provided for?

A. The forecastle-head awnings, and I am not sure whether most of that passage—I would not be certain—that there was not an awning also over No. 1 derricks. I don't know whether that is correct.

Q. Do you recall at the present moment whether it is correct or not?

A. No, sir. Something runs through my mind. The men usually sleep on that hatch in hot weather.

Q. By "that" you refer to the fore deck space?

A. Yes, sir, the fore deck space.

Q. Is that the space that was shown abaft of the forecastle-head on Respondent's Exhibit "B"?

(Deposition of J. Nelson Craven.)

A. Yes, sir.

Q. Was there any other possible means of ventilating No. 1 between-deck hold than were adopted on this voyage? A. No, sir.

Q. Is there any other hold or compartment of the ship which can be as well or better ventilated than No. 1 between-deck hold?

A. No, sir. Under normal conditions it should be the best hold in the ship.

Q. Did you see this mineral water as it was stowed?

A. I did see it after it was stowed. I did not see it stowed.

Q. Did you see it as it came out of the ship?

A. Yes, sir, I saw it as it came out of the ship.

Q. Was the stowage on arrival here broken?

A. No, sir.

Q. Was there any indication that any of the tiers of cases had been thrown down?

A. Not to my knowledge.

Q. Did you see any? A. No, sir.

Q. Did you have any complaint made to you by the stevedores? A. No, sir.

Q. Where is No. 2 hold situated with respect to the boilers? A. With respect to the boilers?

Q. Yes.

A. This is No. 2 hold (pointing). [135]

Q. Is No. 2 hold on the Capacity Plan correctly shown? A. Yes, sir.

Q. Where is No. 3 or No. 4 hold?

A. Here is No. 3 hold (pointing). We usually term it the deep tank.

(Deposition of J. Nelson Craven.)

Q. The deep tank is sometimes called No. 3?

A. Yes, sir; we usually term it the deep tank. On this plan they have it down as No. 3 hold.

Q. No. 4 hold is the hold immediately abaft of the engine-room? A. Yes, sir.

Q. No. 5 is still further up? A. Yes, sir.

Q. Through what holds does the shaft alley go?

A. The after hold and main hold, No. 4 and No. 5.

Mr. DENMAN.—Q. That is as appears on the Capacity Plan? A. Yes, sir.

Mr. CAMPBELL.—Q. Is there a ventilator in the after end of the shaft alley?

A. Yes, sir, it runs through the poop.

Q. Does any of the hot air from the engine-room and boiler-room pass through the shaft alley up the after ventilator? A. Yes, sir.

Q. What effect, in your judgment, does the presence of that shaft alley have on No. 4 and No. 5 holds?

A. A cargo that would be damaged by heat or would take on the properties of heating I should say that would have the effect of helping it.

Q. Why is that?

A. The passage of hot air through it.

Q. In your judgment do the boilers have any effect on the temperature of No. 2 hold?

A. Slightly, yes.

Q. In your judgment is it as cool a hold as No. 1 fore hold? A. No, sir.

Q. What in your judgment is the coolest cargo compartment aboard of the ship?

A. No. 1 forward between-decks.

(Deposition of J. Nelson Craven.)

Q. You had bone-meal stowed in No. 1 lower fore hold? A. Yes, sir.

Q. Did you see this bone-meal before it was loaded on the vessel? [136] A. Yes, sir.

Q. Was there anything in its appearance to indicate to you that it was liable to heat?

A. Not a thing.

Q. Was it wet by rain before it was stowed in the ship? A. No, sir.

Q. Was any of the cargo wet by the rain before it was stowed in the ship?

A. Not to my knowledge. That is a term of rejection, wet cargo.

Q. Did you see the mineral water when it was discharged here?

A. I saw parts of it, not all of it.

Q. In what condition was it? A. Bad.

Q. What was the condition?

A. Stained cases, labels gone, broken bottles, generally bad output.

Q. In your judgment in what way were the bottles broken? A. Weak bottles and bad charging.

Q. Were the bottles broken by any exterior force?

A. Not to my knowledge.

Q. To which they were subjected. Were they broken by any exterior force to which they were subjected? A. No, sir.

Q. Or by careless handling by the stevedores?

A. No, sir.

Q. Either in putting them in or putting them off?

A. No, sir.

(Deposition of J. Nelson Craven.)

Q. What season of the year did you load?

A. December.

Q. Was it cold in Antwerp at that time?

A. Cold weather, yes.

Q. Where were these bottles stored before you took them on board of your ship?

A. I have no idea.

Q. How were they delivered to your vessel, how did they come to you?

A. I have no idea. They were taken from sheds immediately alongside of the ship.

Q. Covered sheds? A. Covered sheds, yes.

Q. Similar to what we have here in San Francisco?

A. Yes, sir; covered tops and open sides.

Q. So that the sides were fully exposed to the atmosphere?

A. The sides exposed to the atmosphere. [137]

Q. In what condition were the baskets when they were discharged? A. Bad.

Q. That does not indicate anything to us. What was the actual condition? A. Mouldy.

Q. Have you ever carried baskets before?

A. Yes, sir.

Q. What has been your experience with them as to their being subject to mould?

A. At times ready to mould, if green baskets.

Q. Where have you ever carried them before?

A. Galveston, Texas.

Q. From what port? A. Antwerp shipment.

Q. How long would that voyage take you?

A. 21 days.

(Deposition of J. Nelson Craven.)

Q. In what condition have you seen them turn out on that voyage? A. Mouldy.

Q. In what condition were they turned out on this voyage? A. Mouldy.

Q. In your judgment, Captain, was there any other portion of the vessel than No. 1 fore 'tween decks where a more uniform temperature can be maintained? A. No, sir.

Q. Why not?

A. It is furthest away from the boilers; it is the smallest space with the biggest amount of ventilation, which means you can keep it at more normal heat than any other part of the ship, except No. 5 between decks which carries vibration. I could not say which has the advantage of capacity.

Q. What do you mean by vibration in No. 5 between-decks?

A. Vibration from the engine racing.

Q. In a seaway?

A. Racing in a seaway and tending to help break the bottles.

Q. Do you ever carry glassware in No. 5 hold?

A. Considerable, empty.

Q. Did you ever carry them in No. 5 hold filled with liquid? A. No, sir.

Q. Why is that? A. On account of vibration.

Q. How does the vibration in No. 4 hold compare?

A. Exactly the same; heat and vibration, in No. 4 and 5. [138]

Q. As the ship is running, in which direction does the hot air from the ship flow?

(Deposition of J. Nelson Craven.)

A. Aft, unless with a very strong following gale from abaft the engine-room aft.

Q. That is, if there is a very strong following gale the heat from the engine-room and boiler will sometimes come forward?

A. With a very strong following gale.

Q. Under any other condition which way does it go? A. Aft, over No. 4 and No. 5 holds.

Q. What effect does that have on the temperature of the holds?

A. It raises the temperature of the holds and gives a bad ventilation also.

Q. Is it as easy to ventilate the after hold by means of your ventilators as it is the forward hold?

A. No, sir; you have a passage of hot air instead of cold air, which passes through the ventilators.

Q. Where does this hot air come from?

A. From the engine-room and boilers.

Q. Up around the jacket of the smokestack?

A. No, sir, from the engine-room and boiler spaces in general.

Q. Did you take any of the temperatures yourself personally? A. No, sir.

Q. Who did that? A. The third officer.

Q. How were the temperatures taken?

A. Down the ventilators.

Q. In which hold?

A. In all the holds.

Q. The temperature was taken in No. 1 lower forehold? A. Yes, sir.

Q. In No. 2 lower forehold?

(Deposition of J. Nelson Craven.)

A. Yes, sir, in No. 2 lower forehold.

Q. And the same in 4 and 5 holds?

A. The same in 4 and 5 holds.

Q. How do you account for the higher temperature shown in No. 1 lower fore hold than No. 2 or No. 4 or 3?

A. I cannot account for it unless it is relative to these minerals waters. [139]

Q. Where are the original bills of lading which were delivered to the shipper?

A. Balfour, Guthrie & Company, so far as I know.

Q. I hand you three bills of lading and ask you whether or not they are true and correct copies of the original bills of lading which were given to the shippers of cargo of the goods therein specified? (Handing.)

A. The goods I cannot swear to. I do not know this particular consignment. These are our bills of lading.

Q. These are not originals, are they?

A. No, sir, they are copies.

Mr. DENMAN.—If you will put in one of those bills I will stipulate that all of those goods in the libel were shipped on similar bills.

Mr. CAMPBELL.—I do not know whether they were or not.

Mr. DENMAN.—I have copies of the bills in my office. They are all apparently like that.

Mr. CAMPBELL.—Have you the original bills?

Mr. DENMAN.—I have them in my office, all except one which is in the custom-house.

(Deposition of J. Nelson Craven.)

Mr. CAMPBELL.—Were they not delivered to the ship on the receipt of the goods.

Mr. DENMAN.—Maybe we have duplicate copies. There will not be any question about all the goods we libel for being under these bills of lading.

Q. Did you sign the bills, Captain? A. No, sir.

Mr. CAMPBELL.—Q. By whom were they signed? A. Jones & Company, Antwerp.

Q. Who were Jones & Company?

A. The representatives of the ship in this case, with authority to sign all the bills of lading.

Q. They were the agents who gathered the cargo?

A. The brokers of the cargo.

Q. What effect, if any, does the temperature of the water through [140] which the ship passes have upon the holds of the ship? A. In what way.

Q. Does it tend to raise or lower the temperature of the holds as the temperature of the water is higher or lower?

A. Does that mean whether the upper or lower part of the holds below the water-line is affected by water temperature?

Q. I think my question is plain. Just read the question, Mr. Reporter, and listen to it, Captain.

(The reporter reads the question.)

A. Yes, sir.

Q. In other words, what effect upon the temperature of the holds of the vessel does the temperature of the water through which the vessel is passing have?

A. They follow to a certain degree the temperature of the water.

(Deposition of J. Nelson Craven.)

Q. Is that true of the between-deck compartments?

A. Less than below her water-line.

Q. In which of the holds, the lower hold or the between-deck hold, is a more uniform temperature?

A. In her between-deck hold.

Q. If you were to return to Antwerp and bring out another cargo of the same character as this one, would you alter the stowage of the mineral waters?

A. No. 1 between-decks fore parts.

Q. Would you change the stowage from what it was on this voyage? A. No, sir.

Q. In your judgment is there any other place in the ship in which they can be stowed as well as they could be in No. 1 fore between-decks?

A. No, sir.

A. Why is that?

A. It maintains an even temperature, as even as you can get it in a ship's hold.

Cross-examination.

Mr. DENMAN.—Q. Captain, this Capacity Plan is drawn to a scale of 1/16th of an inch to a foot, is it not? A. Yes, sir. [141]

Q. Let me ask you, what precautions do you take on the side of the vessel to prevent sweat from getting at the cargo? A. Dunnage wood.

Q. Put in papers or anything of that kind?

A. In this case I could not say whether it was matted or not. The steamer, in general, was matted besides dunnaged.

Q. That is true of the lower holds as well as the upper ones? A. Yes, sir.

(Deposition of J. Nelson Craven.)

Q. As between No. 5 after hold and No. 4 after hold, is there any choice as to which is the cooler?

A. No. 5, if anything.

Q. Would be the cooler? A. If anything.

Q. You say that this cargo was lying in sheds alongside of the vessel? A. Yes, sir.

Q. What was the color of the bags of bone-meal?

A. Dirty white.

Q. Did you have any occasion to examine them yourself, personally?

A. Not beyond passing them all the time.

Q. When you say they were damp or dry, you do not know of your own knowledge?

A. Yes, sir, to a certain extent. If a shower of rain gets on a bone-meal bag it immediately spots.

Q. These were dirty bags any way?

A. Yes, sir. That does not alter the fact that a spot of rain hitting a bag, it shows a spot.

Q. Suppose they were generally damp by the moist condition of the air at that time?

A. That I could not tell you.

Q. As a matter of fact, you did not touch any of the bags? A. I did not touch them.

Q. They were piled in piles, thousands of them?

A. Yes, sir.

Q. They might have been wet inside without your knowing it?

A. It is possible, but not likely.

Q. You cannot tell whether they came in on cars that were wet or anything of the kind?

A. Yes, sir, you could tell if they came in a wet car;

(Deposition of J. Nelson Craven.)

you could not tell if in a damp car. [142]

Q. You did not see them come in cars?

A. No, sir.

Q. You had no occasion to examine the sacks?

A. I had no occasion to examine the sacks.

Q. You do not know what the condition was?

A. A general condition, yes.

Q. You do not know.

A. A minute examination, no.

Q. That is not your business? A. No, sir.

Q. It is the mate's business, is it not?

A. It is everybody's busines in the ship. It refers to me more than the mate.

Q. Does not the mate attend to the stowage of the cargo?

A. The stowage in this case was more under me than anyone.

Q. It was?

A. Yes, sir; the mate works under my instructions.

Q. Why do you want to put willow-ware in a hold that has an even temperature?

A. You put all cargo in a hold with the best temperature you can get, irrespective of willow-ware?

Q. When you were speaking of stowage in that forward hold, you were speaking of stowage of that mineral water. When you said that you picked No. 1 hold for mineral water, you had particularly in mind— A. Mineral water, yes.

Q. They are subject to some breakage from heat any way? A. Not in general.

Q. Don't you have a certain amount of breakage

(Deposition of J. Nelson Craven.)

in all mineral water that comes on voyages of this kind, a certain per cent of breakage in all of it?

A. Very small; and the result of that breakage goes to the bottom; it does not strike upwards as this has done.

Q. Why then were you so anxious to get it in No. 1 forward hold? A. Preservation of the cargo.

Q. Why do you want to put mineral water up there instead of anything else?

A. Because it is the best temperature for it.

Q. It is more likely to blow up than any other cargo? [143]

A. It takes more delicate care than other cargo.

Q. You mean by that that it is more likely to break under changes of temperature; is that it?

A. Yes, sir; more likely to break under changes of temperature.

Q. How did you sound the between-decks?

A. On one or two occasions I myself tested the between-decks with a thermometer.

Q. Suppose you get liquid in there, how do you sound it?

A. Only down the hatchway. There is no means of sounding the between-decks.

Mr. CAMPBELL.—Q. I will ask you if you meant to sound them to see if there is water there?

A. No, sir.

Mr. DENMAN.—Q. You have no sounding pipes through that way?

A. Not to the between-decks.

Q. How were the between-decks drained?

(Deposition of J. Nelson Craven.)

A. As far as I know in this case, there was no drainage to take effect.

Q. How would they be drained?

A. Down in the after part of the hold.

Q. Is there a connection between the two?

A. I believe there is. I am not quite certain.

Q. Does not the hatch coaming come up on all the hatches between the between-decks and the lower hold? A. Yes, sir.

Q. So that if you get liquid in the between-decks, there is no way of its getting out, is there?

A. No, sir.

Q. You have not got any pumps on the between-decks, have you? A. No, sir.

Q. These deck beams run from side to side, don't they? A. Yes, sir.

Q. And the frames are attached to them?

A. The frames are attached to them.

Q. Now, as a matter of fact, neither you nor the mate opened any of these cases that were taken off of the ship? A. No, sir. [144]

Q. So that your bad charging and weak bottle business is a theory of yours?

A. It is the only theory I can get at.

Q. How do you account for the high temperature of No. 5 hold? A. I cannot account for it.

Q. There is no mineral water in that, is there?

A. I could not tell you that.

Q. There was a high temperature there?

A. I could not tell you that without looking at my log-book.

(Deposition of J. Nelson Craven.)

Q. Don't you remember there was a high temperature there? A. No, sir.

Q. Don't you know, as a matter of fact, that all of the baskets you took out of No. 2 hold had no mould on them at all?

A. I could not tell you if there was any in No. 2.

Q. Don't you know all the baskets that were discharged in San Pedro had no mould on them?

A. No, sir.

Q. Did you not watch them as they came out?

A. No, sir, I did not watch them.

Q. Why did you not do that when you are so careful about the cargo coming in?

A. I don't remember there were any baskets in No. 2 hold. I have an idea there were not.

Q. Were there baskets in any other hold?

A. Yes, sir, No. 5.

Q. Any mould on them?

A. I could not swear to that.

Q. They were San Pedro baskets, were they not?

A. I believe there were some for San Francisco. I could not swear to that again.

Q. You principally had charge of putting on the cargo rather than the mate?

A. The mate was working under my direction.

Q. Were you around there yourself?

A. I was part of the time, assisted by a surveyor.

Q. Assisted by a surveyor? A. Yes, sir.

Q. When you say that none of those mineral water cases were broken by careless handling, how can you

(Deposition of J. Nelson Craven.)

say that? They are put in by a stevedore who checks them in one by one?

A. Watched by an officer. [145]

Q. You did not stand there and watch them?

A. Not personally.

Q. You do not know positively that they were broken by carelessness?

A. My officers reported them—

Q. Answer the question. You do not know personally? A. No, sir. I do not know personally.

Q. This charged mineral water such as you have here is liable to vibration over the wheel?

A. Over the wheel, yes.

Q. That is more likely to make them break?

A. It would have that tendency.

Q. That is the reason they are put forward?

A. That is the reason they are put forward.

Q. The between-decks are above the water-line, are they not? A. Yes, sir.

Q. Pretty well up above it? A. Yes, sir.

Q. Take No. 2 main between-decks; what have you got in your cross-bunker there in front of your boiler and engine space? A. Coal.

Q. What do you put in No. 3 deep tank hold?

A. The bottom was stowed with sand dunnaged with matting, and stowed with case goods on top.

Q. Case goods means bottles of liquors.

A. It was liquors in this case, put down there for safety, so that they could not get at it.

Q. Is that an awfully warm place?

(Deposition of J. Nelson Craven.)

A. No, sir. That is, during the stowage; taken off when we go to sea.

Q. Is that not an awfully warn place to put case goods?

A. Not liquors. They are not liable to breakage from heat, spirits.

Q. Are they not liable to injury by heat?

A. No, sir, I don't think so.

Mr. CAMPBELL.—Is there any claim for damage on liquors?

Mr. DENMAN.—I am examining this man as an expert on stowage.

Mr. CAMPBELL.—I am asking you whether or not there is any claim for damage on liquors. **[146]**

Mr. DENMAN.—Not in this libel.

Q. Do you think No. 3 deep tank hold was more likely to heat up and have changes of temperature than No. 1? A. Considerably.

Q. What will make the change of temperature there?

A. The heat from the bulkhead, from the boiler-room.

Q. That heat did not show up during the voyage?

A. Not abnormally.

Q. That did not show up above the other holds?

A. That I could not tell you without looking at my log-book.

Q. You watch these log entries day by day, don't you? A. Yes, sir.

Q. Now, you have a good deal of rain, don't you,

(Deposition of J. Nelson Craven.)

in Antwerp while you are loading?

A. Not while we were loading. There was rain while we were there; not in actual loading.

Q. You kept the hatches covered?

A. During rain.

Q. You keep the hatches covered during the rainy period?

A. We keep the hatches covered during the rainy period.

Q. And they are covered at night, too?

A. They were working a great deal of the night.

Q. When it was raining they were covered?

A. When it was raining they were covered, night and day.

Q. Do you get much ventilation in any ship through the ventilators when lying in port?

A. Not what they get at sea. It is the movement of the vessel that causes the draught. At sea they work downtake and uptake; in port they work simply as an uptake.

Q. Letting out the heat inside?

A. Yes, sir. There is a breeze, of course.

Q. Now, Captain, when you were not working the holds at night. were the hatches on or off?

A. On and covered.

Q. That is, in port? A. In port.

Q. That was always the case, was it not?

A. Yes, sir.

Q. Has your boatswain reported back to the ship yet?

(Deposition of J. Nelson Craven.)

A. He went on board drunk just before she left the wharf. [147]

Q. When did you discover that he was drunk?

A. I could not tell you.

Q. He was drunk this morning?

A. I could not tell you.

Mr. CAMPBELL.—Q. Did not the mate report to you in your cabin this morning when I was present, when we sent out for the boatswain, that he was intoxicated? A. Yes, sir.

Mr. DENMAN.—Q. He was on board then?

A. He was forward, but I did no see him personally. To-night I saw him going aboard. I did not see him this morning, and I could not say whether he was drunk or not.

Mr. CAMPBELL.—Q. The mate would know. He saw him.

A. The mate reported to me. I did not see him myself.

Mr. DENMAN.—Q. What did you do when you found there was 25 degrees difference in temperature? A. I could not do anything.

Q. Could you not have taken any cargo out and gone down?

A. There was no plaec to take cargo out.

Mr. CAMPBELL.—What date was that, Mr. Denman?

Mr. DENMAN.—It was on the 30th of December.

Q. Did you ever have that happen before?

A. Heating?

Q. Yes. A. No, sir.

(Deposition of J. Nelson Craven.)

Redirect Examination.

Mr. CAMPBELL.—Q. Was it possible for you, Captain, to get into any of the lower holds of your vessel while they were filled with cargo for the purpose of restowing it?

A. No, sir, absolutely not, without jettisoning the cargo.

Q. Did any sea water get into your ship on this voyage? A. No, sir.

Q. Did she leak in any of her holds?

A. No, sir.

Q. Who was the surveyor in charge of the loading of this cargo?

A. Assisting me? Captain Baines of Antwerp.

Q. Do you know how long he has been engaged in that business? [148]

A. I cannot tell you that. He is a man of considerable years; probably the better part of 60 years, who has been at it for some years; how long, I cannot tell you. He is an expert on cargo stowage.

Recross-examination.

Mr. DENMAN.—Q. Did you turn your hose into No. 1 hold?

A. No, sir. I had no reason to turn the hose into No. 1.

Q. Not with heating there?

A. Not firing; heating but not firing.

Q. It would not have been good policy to turn the hose in?

A. I had no reason to turn it in.

(Deposition of J. Nelson Craven.)

Q. There was nothing there to indicate that you should do that, was there? A. No, sir.

Q. As a matter of fact you did all you could to better that condition when you found it hot there?

A. We could not better the condition that the hold was in, free ventilation.

Further Redirect Examination.

Mr. CAMPBELL.—Q. Is it customary for cargo ships to have pumps to relieve the between-decks?

A. No, sir, in no case.

Further Recross-examination.

Mr. DENMAN.—Q. Is it not a general rule that all compartments of a ship should either have pumps or drains?

A. Drains; drains in the after part of the between-decks; there are scuppers in the after part of the between-decks.

Q. There were scuppers? A. Yes, sir.

Q. Then any liquor that got in would run out?

A. The liquor that was in there would run down to No. 1 bilges.

Q. Did the liquor show up in No. 1 bilges?

A. No, sir.

Q. Have you got your sounding-book here?

A. No, sir.

Q. Did any liquid show up?

A. No, sir. There is always a certain amount of drainage in all holds every day, with or without cargo. **[149]**

(Deposition of J. Nelson Craven.)

Mr. CAMPBELL.—I will offer in evidence at this time the exhibits marked Respondent's Exhibits "A," "B," "C," "D" and "E."

Mr. DENMAN.—Q. This stowage plan *in* correct (handing)?

A. As far as I have gone through it.

Q. Regarding this hold?

A. Regarding this hold, yes.

Q. That is correct? A. Yes, sir.

Mr. CAMPBELL.—Q. That is No. 1 between-decks hold?

A. Yes, sir, No. 1 between-decks hold; that is correct. There is only one thing, he has minerals coming into the hatch slightly, perhaps a foot. That is not correct.

Q. Who made that?

A. The chief officer made that.

Mr. DENMAN.—Q. How about the wings alongside?

A. The wings were stowed with felt, and overstowed with baskets where possible.

Q. Why was that not put in the plan?

A. That is a thing you cannot put in the plan, the wings, without you put a face plan. The plan was made to guide the officers where the different consignments of cargo were put relative to ports.

Mr. CAMPBELL.—Q. Of discharge?

A. Yes, sir. They are colored for their benefit.

[Deposition of Lambert Page, for Respondent (Recalled)].

LAMBERT PAGE, recalled for the respondent.

Mr. CAMPBELL.—Q. I will ask you to look at your log and state whether or not that is in your handwriting (Handing)? A. Yes, sir.

Q. Did you make up the log? A. Yes, sir.

Q. And are the facts therein stated true?

A. Yes, sir.

Q. Is that your signature at the bottom of each page?

A. That is my signature at the bottom of each page.

Q. Look at the temperatures that you have marked on each page. You give the temperatures for what holds? A. Nos. 1, 2, 3, 4 and 5. **[150]**

Q. What No. 1 hold was the temperature taken from? A. The lower hold.

Q. Was that the temperature of No. 1 between-decks hold? Was that temperature taken from No. 1 between-decks hold, or No. 1 lower hold?

A. No. 1 lower hold.

Q. Is it the temperature of No. 1 between-decks hold?

A. No, sir, it is not the temperature of No. 1 between-decks hold.

Q. Did you take the temperature of No. 1 between-decks hold?

A. Personally, no. The third officer did.

(Deposition of Lambert Page.)

Q. Is the temperature of No. 1 between-decks hold shown in the log?

A. No, sir, I cannot say that it is. It was taken down through the ventilator into the lower sleeve.

Q. At the lower end of the ventilator?

A. At the bottom end of the ventilator, as far as the thermometer would go down.

Q. In what hold would that be? A. In all holds.

Q. In what hold would that be?

A. It would be in the lower hold.

Q. In your judgment was the ventilation that was given No. 1 between-decks hold, would the temperature be as high as it was in No. 1 lower hold as indicated by the log?

A. I should say that the temperature of the lower hold would be much different to the between-decks.

Q. Which would be the higher? Which hold would be the cooler hold in your judgment? In your judgment would the lower hold or the between-decks hold be the cooler or hotter? Which?

A. When the water is at a very low temperature I should say that the lower hold would be cooler than the other. If the sun was very hot during the day it would be vice versa. If the hatches were covered up in bad weather, I should say that the lower hold would be the warmest.

Q. Do you know what the temperature of the No. 1 between-decks was at the times indicated on the log of the temperature of the **[151]** lower hold?

A. It could not have been much different than the

lower hold, I should say.

Q. Did No. 1 lower hold get the same ventilation as No. 1 between-decks did?

A. The between-decks got more ventilation.

Q What effect would that have on the temperature, raise it or lower it? A. It would lower it.

Q. How often did you have No. 1 main hatch off?

A. We had them off every day with the exception of the days it was very bad weather, when it was impossible to take them off without getting water down the hold.

Q. In your judgment did that assist in giving No. 1 between-decks a freer ventilation? A. Yes, sir.

Q. What effect would that have on the temperature of the hold, to cool it? A. To cool it.

Q. Was this cargo wet by rain when it was put into the ship? A. No, sir.

Q. Were the hatches covered at night?

A. Yes, sir, they were covered at night.

Q. Was there any water taken into the hold of the ship by the sea water on the voyage? Did your ship leak?

A. No, sir, she did not leak. I cannot say there was any water taken down at all.

Q. Did you see this bone-meal when it was loaded?

A. Yes, sir, I see the bone-meal.

Q. What condition was it in?

A. In apparently good condition.

Q. Was it damp or wet? A. No, sir.

Q. Did you handle any of the sacks yourself?

(Deposition of Lambert Page.)

A. Yes, sir.

Mr. DENMAN.—He said he did not in his direct examination.

Mr. CAMPBELL.—He did not say that.

Mr. DENMAN.—Q. I asked you if you touched any of the cargo yourself.

A. The question you asked me, if I may interrupt, was did I handle the cargo. You meant to say, as I understood it, did I **[152]** load any of the cargo myself. I went around and looked at all the cargo as it came in the ship, when it was on the quay.

Mr. CAMPBELL.—Q. Did you examine it

A. Yes, sir, I examined practically all the cargo, everything that was taken in.

Q. In what condition did you find this bone-meal that was taken in No. 1 lower hold?

A. In apparently good condition.

Q. Was it wet? A. No, sir.

Q. In your judgment, could No. 1 between-decks hold be given any better ventilation than it was given on this voyage? A. No, sir, that is impossible.

Q. Was it possible to give any compartment as good ventilation as you gave No. 1 between-decks?

A. Yes, sir. It was possible to give the other hold as much ventilation as you could give No. 1.

Q. Which other hold? A. All the other holds.

Q. The lower hold too? A. Yes, sir.

Q. How would you do it?

A. By taking off the hatches and keeping the ventilators trimmed to wind.

(Deposition of Lambert Page.)

Q. Would the hatches removed from the main deck permit ingress of air into the lower hold?

A. Yes, sir.

Q. How? A. By just taking them off.

Q. How would the air get into the lower hold through the main deck hatch?

A. We never cover them up with tarpaulins, the lower deck hatches. We just put a few hatches across to separate the cargo and leave spaces between for ventilation.

Q. Was there anything in the bone-meal as you took it aboard of the ship to indicate that it was liable to heat? A. No, sir.

Q. Did any rain get into the lower hold after the bone-meal was stowed? A. No, sir.

Q. During the course of the voyage when you had your hatches open was any water taken in through them? **[153]**

A. No, sir, not that I am aware of. There was none seen. The hatches during bad weather were always covered up and secured with three tarpaulins.

Q. I will ask you to examine this book which seems to be the cargo stowage plan and ask you who made it (handing). A. I made it.

Q. When did you make it?

A. I made it during the time we were in Antwerp and immediately after leaving there from notes that I kept.

Q. Is it a correct plan of the stowage?

A. Yes, sir, it is a correct plan of the stowage.

(Deposition of Lambert Page.)

Q. Does it indicate the position with respect to the center of the hold and the wings of the hold where cargo was stowed? A. Fairly well.

Q. Referring to No. 1 between-deck hold I will ask you to interpret the stowage plan.

A. In the fore part of the between-decks mineral water was stowed.

Q. Is that shown on the plan? A. Yes, sir.

Q. How is that marked on the stowage plan?

A. It is marked "right across the ship."

Q. What color.

A. It is green. The red writing is for the port stowage. The black writing is for amidships stowage, and the green for starboard stowage.

Q. What does the color plan show as to the stowage in the middle portion of No. 1 between-decks?

A. San Pedro general and San Pedro baskets in general.

Q. What was stowed in the port wings?

A. In the wing San Pedro general.

Q. Interpret that as you interpreted the first. What was the port stowage and what was the wing stowage?

A. The port stowage was general and baskets. Amidships stowage in the hatchway was baskets. On the starboard side was San Pedro general. [154]

Q. What was the after end, in the same way?

A. The after end was Frisco barrels, the wool grease, and Frisco baskets.

Q. Had you any reason to believe when you stowed

(Deposition of Lambert Page.)

the bone-meal in No. 1 hold that it would be liable to heat? A. No, sir.

Cross-examination.

Mr. DENMAN.—Q. The pebbles came alongside of the vessel in lighters? A. Yes, sir.

Q. They were uncovered, were they not?

A. I don't know. They were all stowed in bags.

Q. There was no reason to cover the pebbles, was there?

A. As a rule those lighters are always covered in the hatchways.

Q. I am talking about when they came alongside in lighters.

A. I don't know if they were covered when they came alongside or not.

Q. They might have been wet. You put those on the bottom always because you want the drainage at the bottom; is that not the proper stowage of pebbles?

A. We should not put them in wet if we were going to take in cargo that was perishable, put it over the top.

Q. They came alongside of the vessel in open lighters?

A. No, sir, there were no open lighters. They have got hatches right across the lighters fore and aft, and covered with only tarpaulins. They cannot go around Antwerp and around the river Skelt without tarpaulins.

Q. Even with pebbles?

(Deposition of Lambert Page.)

A. Not even with pebbles.

Q. Is it not a fact that a very large portion of coke comes in lighters and is taken off without tarpaulins over it? No, sir.

Q. You never saw that?

A. No, sir, I never saw it, never.

Q. You felt all those pebble bags to see if they were dry or not? [155]

A. No, sir.

Q. You felt all the bone-meal bags to see if they were or not?

A. No, sir, but I walked over a portion of them and had my hand on a number of them.

Q. What made you put your hand on them?

A. Just knocking about the wharf, probably leaning on them looking after other things going in, and I was covered with bone-meal, knocking around on the wharf, when it was taken off in the carts and stored in the shed.

Q. What does bone-meal smell like?

A. I cannot say there is any smell. I have not got a very sensitive smell at any time.

Q. Has it any odor?

A. Not that I am aware of. I could feel it on my chest, a pain in my chest.

Q. You do not mean to say you cannot smell any odor in bone-meal? A. Nothing to speak of, no.

Q. That bone-meal was there in open sheds?

A. No, sir, covered sheds.

Q. They were open at the sides?

A. They were open at the sides.

(Deposition of Lambert Page.)

Q. You had a great deal of rain and misty weather? A. Misty weather?

Q. Rainy weather? A. Yes, sir.

Q. The rain could have beaten in on the bone-meal very easily, could it not? A. No, sir.

Q. Why not?

A. Because the breadth of the shed would be 300 or 400 feet; the roof of the shed would be 300 or 400 feet I meant to say. This is all stowed well back to allow the carts to come alongside, and wagons, and discharge their cargo.

Q. How were the pebbles got on the ship?

A. How were they got on?

Q. Yes, how did you get them out of the lighters on to the ship?

A. I think it was iron tubs they were brought aboard in—no, it was not; it was wooden troughs that they were taken in.

Q. How did you prevent the sweat of the sides getting on the bone-meal and bone flour?

A. The spar ceiling prevented it. We had it matted all down. The spar ceiling leaves an air space of about five inches between the ship and the cargo. [156]

Q. Inside of that you had this matting?

A. Matting right down the side.

Q. That prevented the moisture getting on the bone-meal, is that it? A. Yes, sir.

Q. That did not run clear up the side of the vessel to the between-deck beams, did it?

A. Right up to the decks, yes.

(Deposition of Lambert Page.)

Q. So there was no chance for the sweat to get from the sides on to the bone-meal at all, the matting prevented that, did it? A. No, sir.

Q. The matting prevented any sweat getting from the sides of the ship in on to the bone-meal, is that it?

A. If the ship's sides sweat at all it would run down the vessel's side, but condensation may occur between the matting and the ship's side.

Q. Your idea is that the mats ran right up to the deck and prevented any moisture coming from the ship's side into the bone-meal; is that correct?

A. The mats are not air-tight or damp-proof. It is good protection.

Q. Protection from what?

A. From touching any iron or wood or anything around the ship's side.

Q. You put those close together so that the moisture cannot come through, don't you—or do you?

A. Not to prevent moisture from coming through but to keep them from touching anything that is likely to sweat. The mats are very porous. There is plenty of air that could get through the mats.

Q. If there was moisture in there it would reach the bone-meal then?

A. If there was moisture between the ship's side and the mats, it is more likely to cause a sweat on the ship's side on the iron and run down in the bilges.

Q. That would make moist air in there, would it not?

A. Yes, sir; the air would be a little damp I sup-

(Deposition of Lambert Page.)

pose. It would not be dry air. [157]

Q. How long was the bone-meal on the deck before you took it on board, that you know of?

A. As the bone-meal came down it was loaded.

Q. It was? A. Yes, sir.

Q. Where did it come from, do you know?

A. No, sir.

Q. Could any moisture get up from the bilges through the scuppers into the between-decks?

A. No, sir.

Q. Why not?

A. It is not likely to force its way up through a pipe which would be about an inch and a half in diameter up as much as twenty feet or more.

Q. Don't you think you ought to have had those scuppers covered?

A. No, sir; they should not be covered.

Q. They should not be covered? A. No, sir.

Q. They were not covered on this trip?

A. No, sir.

Q. Any drainage from those bottles would run down the scuppers?

A. It would run down the scuppers into the bilges.

Q. Those scuppers are in the after end, are they?

A. Yes, sir.

Q. There is no pitch from the forward end of No. 1 between-decks back to the scuppers, or is there a pitch back of the deck there?

A. Any water that is likely to come away from the cases of mineral water on the fore part would run aft.

(Deposition of Lambert Page.)

Q. Why? A. Because there is an incline.

Q. An incline of the deck?

A. Yes, sir, running aft.

Q. Your deck plan shows that these baskets that came to San Francisco were stowed in the after portion of the No. 1 hold at the top of the hold, weren't they; in the after end of No. 1 hold near the top?

A. Yes, sir.

Q. And that is where the ventilators open into, No. 1 hold, is it not?

A. Yes, sir. The after ventilators?

Q. Yes. A. Yes, sir.

Q. And those are the intake ventilators, whenever you can make [158] them? A. Yes, sir.

Q. These were the baskets that came out injured and mildewed? A. Yes, sir.

Q. It was only the baskets in the hold with the mineral water that were injured on this trip?

A. Yes, sir.

Q. The baskets in the other hold came out all right, didn't they? A. Yes, sir.

Q. Did you have any mineral water stowed in after hold No. 5? Does your plan show any there?

A. No, sir.

Q. As a matter of fact, you would not have stowed it in No. 5 on acocunt of the vibration?

A. Vibration was one thing, and a warmer hold.

Q. That is, you think the heat of the engines will go backward rather than forward? A. Yes, sir.

Q. No. 4 would be the warmer and No. 5 less warm? A. Yes, sir.

(Deposition of Lambert Page.)

Redirect Examination.

Mr. CAMPBELL.—Q. Every ship's hold is subject to more or less sweat in condensation, is it not?

A. Yes, sir.

Q. Is it possible to absolutely prevent it?

A. No, sir.

Q. Did you see these pebbles when they were taken in?

A. I saw the pebbles after they were taken in; some of them, not all.

Q. Were they wet? A. No, sir.

Q. You say they were in sacks?

A. Yes, sir, small bags.

Q. Was there anything to indicate that they were wet? A. No, sir.

Q. Do you know where they had been secured?

A. Yes, sir; some of them. Where they were secured?

Q. Where they came from? A. No, sir.

Q. Did you take them into the ship's hold during rainy weather so that they were wet while they were being transferred from the lighter to the ship?

A. No, sir.

Q. Were they rained upon after they were in the hold? A. No, sir. [159]

Mr. CAMPBELL.—I will offer in evidence the mate's stowage plan as Respondent's Exhibit "F."

Mr. DENMAN.—I will offer in evidence the log as Libelant's Exhibit 1.

Recross-examination.

Mr. DENMAN.—Q. This cargo plan is made up

(Deposition of Lambert Page.)

by making your notes from day to day as you go along? A. Yes, sir.

Q. And then after you get aboard of the ship you check everything up and make up the plan, on page D from those notes? A. Yes, sir.

Q. The notes from which the plan has been made appear in this same cargo book, don't they?

A. Yes, sir.

Q. There was some enamel ware, quite a considerable quantity of enamel ware, in hold No. 1, was there not?

A. If there was, it would be here in the between-decks with that general.

Q. Your notes show that, do they not, that there was?

A. These notes that I have at the back here are not taken from the cargo as it was loaded. They were taken from the stevedore's receipts to check mine, to see how it corresponded with mine after we got to sea from the receipts I got from the stevedore stating all that is mentioned. On each receipt that was signed the stevedore always made a footnote of what hold it was supposed to be stowed in. They were not always correct; sometimes the stowage would be altered during the day when other cargo came down. In the morning they would be loading and a large shipment may turn up and they would alter the stowage of the cargo and take in the shipment probably that turned up.

Mr. CAMPBELL.—Q. So that their receipts would not necessarily be correct? A. No, sir.

(Deposition of Lambert Page.)

Mr. DENMAN.—Q. Is this correct here, with regard to the stowage of enamel ware?

A. I don't remember of any enamel ware. There was general goods in the between-decks. [160]

Q. Where was the enamel stowed on the ship?

A. I guess it is in the general.

Q. Then it is that general cargo?

A. There may be some there. I don't remember personally any enamel ware amongst the general, if it was there.

Q. Where was the enamel ware on the vessel?

A. I don't know if I have any down here in this plan or not. I think I have got it stated as general.

Q. Then, if the stowage shows enamel ware in No. 1 hold, it is not likely it was put in any other hold, is it?

A. Yes, sir, it is very likely. Still, I daresay there was some down there.

Mr. CAMPBELL.—Q. Do you know? Have you any recollection whether there was or not?

A. No, sir. All I could say is there was general. I could not say there was enamel ware.

Q. Did you open every package to see what was contained in it? A. I never opened one package.

Mr. DENMAN.—Q. Let me look over this to see if you have got any enamel ware.

Mr. CAMPBELL.—What is the purpose of the question? To test the veracity of the witness?

Mr. DENMAN.—No. I have some enamel ware in my claim.

Mr. CAMPBELL.—You have not specified it in the present libel.

(Deposition of Lambert Page.)

Mr. DENMAN.—It is claimed for in the libel under the heading of merchandise following the bill of lading.

Q. All of these holds had the same open hatches between the lower hold and the upper hold for ventilation? A. Yes, sir.

Q. All the holds are stowed in that way?

A. Yes, sir.

Q. I believe you said you did not see all these pebbles come alongside of the ship; only some of them?

A. That is all.

Q. How do you indicate here what holds the packages were in; what shows the holds?

A. There is nothing to show which holds they are in. [161]

Q. What is this (pointing)?

A. That is some notes made from the stevedore's receipts after we get to sea.

Q. How are you able to make up your cargo plan of those 210 cases of enamel ware?

A. That has been put down as general. I have not specified that in the plan at all. It is put down as general.

Q. How are you to make up from this your plan over here?

A. From this (pointing)?

Q. Yes. A. I do not make it up from this at all.

Mr. CAMPBELL.—Q. When you say "this" you are referring to the cargo plan-book?

A. Yes. I do not understand.

Mr. DENMAN.—I will straighten it out.

(Deposition of Lambert Page.)

Q. As I understand it, this plan on page D is made up after you have gotten to sea from the notes you have taken during the loading of the vessel?

A. Yes, sir, from the notes I have taken during the loading. I have always carried a plan around with me, a rough plan.

Q. Where is the rough plan you made?

A. I have not got it here. I might have it on board. I daresay I have.

Q. This is not the original cargo plan, but the one that is made up afterwards?

A. You cannot go around amongst the cargo with your hands dirty all the time; you cannot keep your hands clean on board of the ship and keep a decent plan. After the work is finished of an evening you fill up a decent plan then, a plan that people will be able to look at.

Q. Where was your oxalic acid on this vessel?

A. I believe some of it was in No. 5 between-decks in the after hatch, but I am not sure.

Q. That was in the San Pedro cargo, was it not?

A. I think it was San Pedro. I don't know.

Q. As a matter of fact there was some in No. 1.

A. Oxalic acid? [162]

Q. Yes. A. No, sir, I don't think there was.

Q. Was it not in that general cargo in No. 1?

A. That would not be put down as general cargo.

Q. Just find out where that is.

A. This would be where it is (pointing). In there and in the poop, too.

Q. Any leakage in there? A. No, sir.

(Deposition of Lambert Page.)

Q. It came through all right, did it?

A. It came through all right. Anything that is in drums will not be mentioned as general.

Q. Let me see that plan of the drawing of the ventilators. What did you say was the space between that sleeve and that (pointing)?

A. Three to four inches, I should say.

Q. Four, is it not?

A. About that; three to four inches; yes, about four inches. You could get your hand up.

Q. What is the width here (pointing). About 18 inches? A. On the top part, two feet.

Q. Did you measure it?

A. I have not measured it, no. I have measured it in my time; I don't know now.

Q. You don't recollect?

A. I don't recollect. It would be either 22 or 24 inches, I should say, the diameter of it.

Q. That is simply your memory and a guess at it?

A. Yes, sir.

Q. You say about four inches between the collar?

Mr. CAMPBELL.—He said between 3 and 4 inches.

Mr. DENMAN.—He said about 4 inches.

Mr. CAMPBELL.—He said between 3 and 4.

A. I said between 3 and 4, and you said 4 inches. I said yes, you are just able to put your hand up there. It is between 3 and 4.

Further Redirect Examination.

Mr. CAMPBELL.—Q. I want to ask you a few more questions to clear the record which has been

(Deposition of Lambert Page.)

produced of how the cargo plan was made. I should like to ask you, Mr. Page, from when and what you made up this stowage plan that is shown in this book. [163]

A. From the rough—

Q. When did you make it up first?

A. In Antwerp. I started to make it up in Antwerp.

Q. Day by day? A. Day by day, yes.

Q. When did you work on it?

A. Of an evening after all the work is finished of the day.

Q. From what would you make it up?

A. From a rough plan that I carried about with me, and also a note-book.

Q. When would you make notations on the rough plan?

A. During the whole day as things were going into the ship, and as they came down to the shed.

Q. When would you make your notes?

A. At the same time.

Q. Is it a true and correct plan of the stowage of the ship?

A. Yes, sir, it is a true and correct plan of the stowage.

Q. Is the stowage plan at all made up from the entries which are shown on the various pages alphabetically arranged. A. No, sir.

Mr. DENMAN.—I call for the notebook and the original plan from which this is made up.

Mr. CAMPBELL.—Q. Have you the notes and

(Deposition of Lambert Page.)

the original plan on board of the ship?

A. I could not say whether I have or not.

Q. If you have, mail it to me, and we will deliver it to Mr. Denman so that he can test the veracity of it with the present plan.

Mr. DENMAN.—Or the accuracy of it.

Further Recross-examination.

Mr. DENMAN.—Q. You do not mean to say you can carry in your head all the details of the loading of a great ship like that?

Mr. CAMPBELL.—He has not testified to that.

Mr. DENMAN.—Q. You do not mean to say you can carry in your head the loading of a great ship of that kind? A. No, sir.

Q. You depended on your notes when you made that thing up, didn't you?

A. I depended on my notes. On the general outline I have, [164] a very good idea as the thing goes along. I can remember quite a number of things up and down the holds and in the shed, watching things coming down and puttering about the whole day; not only myself, but the second and third officer is watching the cargo in each hold.

Q. This was made up in part then from the information that you got from the second and third officers? A. No, sir.

Q. It was not?

A. No, sir. I might ask them a question now and then.

Q. As to where the cargo was stowed, you mean?

A. If they were putting down something in No. 4

(Deposition of Lambert Page.)
hold and I wanted to get down No. 1 to see anything, I would probably sing out to the officer, "Where are they putting down that stuff. Are they putting it on the fore part?" or any other part of the hold that they were putting it in, so that I should know; and when I came up from No. 1 I would go down No. 4 and look at it.

Q. As you discharge the vessel from the various hatches do you get receipts for the cargo that you deliver? A. No, sir.

Q. You do not? A. No, sir.

Q. How can you check up what you have in the different hatches? How do you do that? You have a lot of cargo for San Pedro in a certain hatch.

A. Yes, sir.

Q. How do you check that out when you deliver it, make a list as it comes out?

A. All the officers did was to watch the hold to see there was nothing pilfered.

Q. Who makes that list as it comes out, the freight clerk? A. Yes, sir.

Q. Suppose I want to find out what hold that enamel ware came out of, from whom will I find that?

A. You will be able to find out from the clerks who are tallying the cargo out. [165]

Q. Do you recollect that tally?

A. We have not done it this time; we watched that there was no pilfering going on.

Q. The ship has no check on the tally of the clerks?

A. No, sir.

Q. That is correct, is it? A. Yes, sir.

United States of America,
State and Northern District of California,
City and County of San Francisco.

I, Francis Krull, a United States Commissioner for the Northern District of California, do hereby certify that the reason stated for taking the foregoing depositions is that the testimony of the witnesses Lambert Page and J. Nelson Craven is material and necessary in the cause in the caption of the said depositions named, and that they are bound on a voyage to sea and will be more than one hundred miles from the place of trial at the time of trial.

I further certify that on Tuesday, May 2d, 1911, at 4:30 P. M., I was attended by William Denman, Esq., Proctor for the libelants, and by Ira A. Campbell, Esq., proctor for the respondent, and by the witnesses who were of sound mind and lawful age, and that the witnesses were by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in said cause; that said depositions were, pursuant to the stipulation of the proctors for the respective parties hereto, taken in shorthand by Clement Bennett, and afterwards reduced to typewriting; that the reading over and signing of said depositions of the witnesses was by the aforesaid stipulation expressly waived.

I further certify that I have retained the said depositions in my possession for the purpoose of delivering the same with my own hand to the United States District Court for the Northern District of California, the court for which the same were taken.

Accompanying said depositions and annexed thereto and forming [166] a part thereof are Respondent's *Exhibit* "A," "B," "C," "D," "E," and "F," and Libelants' Exhibit 1.

And I further certify that I am not of counsel nor attorney for any of the parties in the said depositions and caption named, nor in any way interested in the event of the cause named in the said caption.

IN WITNESS WHEREOF, I have hereunto subscribed my hand at my office in the city and county of San Francisco, State of California, this 13th day of May, 1911.

[Seal] FRANCIS KRULL,
United States Commissioner, Northern District of California, at San Francisco.

[Endorsed]: Filed May 13, 1911. Jas. P. Brown, Clerk. By Francis Krull, Deputy Clerk. [167]

In the District Court of the United States in and for the Northern District of California, First Division.

(No. 15,156.)

THE AMERICAN IMPORT COMPANY, a Corporation, et al.,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," Her Engines, etc.,

Claimant.

Depositions of S. N. Keame and Norman Watkins Taken on Behalf of Claimant.

BE IT REMEMBERED that on Tuesday, February 4th, 1913, pursuant to stipulation of counsel hereunto annexed, at the offices of Messrs. McCutchen, Olney & Willard, in the Merchants Exchange Building, in the city and county of San Francisco, State of California, personally appeared before me, Francis Krull, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., S. N. Keame and Norman Watkins, witnesses produced on behalf of the claimant.

William Denman, Esq., of the firm of Denman & Arnold, appeared as proctor for the libelants, and Ira A. Campbell, Esq., of the firm of Messrs. McCutchen, Olney & Willard, appeared as proctor for the claimant, and the said witnesses, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth.

It is hereby stipulated and agreed by and between the proctors for the respective parties, that the depositions of S. N. Keame and Norman Watkins may be taken *de bene esse* on behalf of the claimant at the offices of Messrs. McCutchen, **[168]** Olney & Willard, in the Merchants Exchange Building, in the city and county of San Francisco, State of California, on Tuesday, February 4th, 1913, before Francis

(Deposition of S. N. Keame.)

Krull, a United States Commissioner for the Northern District of California, and in shorthand by Herbert Bennett.

It is further stipulated that the depositions, when written out, may be read in evidence by either party on the trial of the cause; that all questions as to the notice of the time and place of taking the same are waived, and that all objections as to the form of the questions are waived unless objected to at the time of taking said depositions, and that all objections as to materiality and competency of the testimony are reserved to all parties.

It is further stipulated that the reading over of the testimony to the witnesses and the signing thereof is hereby expressly waived.

[Deposition of S. N. Keame, for Claimant.]

S. N. KEAME, called for the claimant, sworn.

Mr. CAMPBELL.—Q. What is your name?

A. S. N. Keame.

Q. How old are you? A. 47.

Q. Are you a ship master? A. Yes, sir.

Q. Of what ship are you now master?

A. Steamer "Turion."

Q. How long have you been following the sea?

A. Since I was 16 years of age; 31 years.

Q. How long have you been master of steam vessels? A. Six and a half years.

Q. How long were you first officer carrying steamers prior to that?

(Deposition of S. N. Keame.)

A. Five years in steam and about three and a half in sail.

Q. In what trades have you been master of steam vessels? A. Brazilian trade and Cape trade. **[169]**

Q. Cape of Good Hope?

A. Yes, sir, and to the East Indies, New Orleans, Galveston, West Indies, Portland and around here, San Francisco.

Q. In the East Indies do you include Calcutta?

A. I have been a master in Calcutta, Rein Guen and also Carache.

Q. As first officer in what trade were you?

A. Much the same and also a good deal in Calcutta.

Q. What is the size of the "Turion"?

A. Her registered tonnage is 3854.

Q. Net tonnage? A. That is net, yes, sir.

Q. What is the size of her No. 1 between-deck hold?

A. Her No. 1 between-deck—it is 60 feet by 44 at the aft end.

Q. 60 feet long? A. Yes, sir, and 8 feet high.

Q. What is her beam?

A. 44 at the biggest end; of course, this hatch closes some.

What is it at the forward end?

A. I should have to guess that. 30 feet I should say would be a very fair approximation.

Q. Is that ventilated by means of ventilators?

A. Yes, sir.

(Deposition of S. N. Keame.)

Q. How is your No. 1 between-deck hold ventilated? A. By four ventilators.

Q. Where are they located?

A. Two on the forward end of the hatch and two on the aft end of the hatch.

Q. Do those ventilators extend as a solid pipe from the main deck or the upper deck through to the lower hold? A. No, sir, there is a pipe inside.

Q. What is the size of the ventilator pipe which extends from the main or upper deck to the between-deck holds?

A. That is the inside pipe, you mean?

Q. The outside pipe. The first pipe that extends from the outside?

A. Seventeen inches; 16¾ inches to be exact.

Q. Just make me a drawing, if you will, of that; of the cross [170] section foot of the pipe leading from the upper deck to the between-deck hold?

A. That is not clear.

Mr. DENMAN.—Q. Draw it yourself?

A. Yes, sir.

Mr. CAMPBELL.—Q. Has it a hood on it that turns back?

A. Yes, sir; that is the upper part exactly. I understand now.

Q. Now, what is the diameter of the pipe that extends down into the between-deck hold?

A. This is 16 and three-fourths, this is one here (pointing).

Q. Is there a pipe inside? A. A pipe inside.

(Deposition of S. N. Keame.)

Q. That runs to the lower hold? A. Yes, sir.

Q. Is it as I draw it here?

A. Yes, sir, that is it.

Q. What is the space between the outside pipe and the inside pipe? A. 2 and one-fourth inches.

Q. That is the space that I mark now?

A. Yes, sir, that is the space exactly.

Q. That is to say, what is the diameter of the inside pipe which extends from the between-deck to the lower hold? A. That is 12 and one-half inches.

Q. What has been your experience with that ventilation as to its *su*fficiency?

A. I have found it very efficient.

Q. Do you assist in ventilating the holds of your vessel by means of the hatches? A. Yes, sir.

Q. Now, captain, assume that the steamer "Skipton Castle" had a between-deck hold 60 feet long by 39 feet wide at the aft end and 30 feet wide at the forward end and a heigth of 8 feet and had four ventilators; two in the forward end of the hold and two aft of the hatch of the size of ventilators which you have, I will ask you whether or not in your judgment those ventilators were of sufficient size to give that hold proper ventilation?

Mr. DENMAN.—I object to the question on the ground that it is not shown the character of cargo ventilated; the class of cargo. **[171]**

Mr. CAMPBELL.—Q. Of general cargo, including mineral water, baskets and wool? A. Yes, sir.

Q. How does that system of ventilation, those size

of ventilators compare with the general system of ventilators in use in cargo carrying vessels?

A. I don't quite understand the question.

Q. With cargo carrying vessels of the size of your vessel how does your system of ventilation with respect to your ventilators and size compare in general use with the English cargo carrying steamers?

A. Very favorable.

Q. Are they larger or smaller?

A. They are larger?

Q. I say how do the size of those generally in use compare with the size and type of your vessel?

A. I should say very favorable.

Q. What do you mean by "favorable"?

A. In regard to size?

Mr. DENMAN.—Q. Are they larger or smaller?

A. They are much the same, as far as I know.

Mr. CAMPBELL.—Q. How many vessels have you been in? A. In our own concern?

Q. Yes.

A. Over a dozen; say 14 or 15, I should think.

Q. How do they compare with the type of the "Turion"?

A. Much the same. They run practically the same.

Q. Which hold of a cargo carrying steamer would you regard as the coolest? A. No. 1.

Q. Which hold would you regard as being coolest and freest from ventilation?

A. No. 1, particularly the between-decks.

Q. If you were to carry cargo which might be

(Deposition of S. N. Keame.)

affected by heat in which part of the vessel in your judgment would it be proper and best to place it?

A. No. 1, most decidedly.

Q. No. 1 lower hold, or No. 1 between-deck?

A. No. 1 between-deck if I could preferably.

Cross-examination.

Mr. DENMAN.—Q. Take mineral waters that are affected by heat, would you stow them in No. 1 hold?

A. No. 1 between-deck. **[172]**

Q. If you could? A. Yes, sir.

Q. What is the reason for that?

A. Well, it is farthest away from the boilers for one thing and experience has taught us it is the best place to put them.

Q. Mineral waters are liable to blow up if they get too hot? A. They are.

Q. Have you ever had that experience?

A. No, sir.

Q. The chief thing is to get them in the coolest place? A. Yes, sir.

Q. Because they are liable to burst from the heat?

A. Yes, sir.

Q. What experience have you had with the maintenance of temperatures in the holds of your ship; you have had no little experience in taking temperatures?

A. Yes, sir.

Q. Will the *hold* vary greatly in the temperature of a vessel? A. Yes, sir.

Q. How greatly will they vary?

A. Well, up to 10 and 15 degrees sometimes.

(Deposition of S. N. Keame.)

Q. Those holds which are nearest the engines are warmer than those further away?

A. We generally find that the case. For instance, vessels with big holds hold more stuff in them and naturally they are closer packed; No. 2 particularly and the same on the hatch abaft the engines *where* we generally look upon as the worst for sweating.

Q. In taking the temperatures of holds have you ever found your No. 1 hold the hottest in the ship in any case you can recall? A. I cannot recall that.

Q. You would remember that if you had, as it is regarded as the coolest hold?

A. Yes, sir, it is the coolest. I have no recollection of finding No. 1 the hottest.

Q. What is the method of taking temperatures in hold; how do you find out whether a hold is cool or hot? **[173]**

A. We take the temperature by putting thermometers down in the ventilators and generally keep them down and take them twice a day.

Q. And you average that? A. Pretty well, yes.

Q. How much will *you* holds vary from the temperature of the outside air?

A. In extreme cases up to 20 degrees, I should say, or getting on that way, 15 to 20 degrees say in very hot weather.

Q. It would be rather an extraordinary condition where you found 50 degrees difference between the hold and the outside?

A. Yes, sir, I should be looking for trouble then,

(Deposition of S. N. Keame.)

that is a case of 50 degrees difference.

Q. Why do you have this pipe—as I understand it this pipe leading from the lower hold up to the upper deck through the between-deck is solid so that none of the air from that pipe could get in the between-deck space? A. Yes, sir.

Q. Is that to prevent any foul matter getting between the between-deck? A. Yes, sir.

Q. As I understand it, the air coming from the lower hold goes right up through there and would not stop at the between-deck? A. It would drift up.

Q. Suppose you had great heat down there you could not expect that heat to drift back through, it would naturally go out?

A. Our experience shows it does go out, we never look for that.

Q. That is the reason why it is made solid?

A. Yes, sir.

Q. That is to say, made solid from the lower hold to the outside deck? A. Yes, sir.

Q. Everything passes between the between-deck hold to the outside space? A. It does not do that.

Q. You want it to do that? A. No, sir.

Q. Your idea is to prevent the heating or moisture from getting into the between-decks? A. Yes, sir.

[174]

Q. That is true of your aft ventilators?

A. Yes, sir.

Q. Now, supposing you were to pack your cargo tight up against the ventilators in the lower hold,

(Deposition of S. N. Keame.)

either pack it right up against the ventilators, or right up against the beams?

A. Against the opening?

Q. Right at the opening, as I understand it, your beams extend? A. Some distance down.

Q. They extend from side to side on a vessel like that? A. Yes, sir.

Q. And the opening is up at the top of the beams?

A. Yes, sir.

Q. Assume that you load your cargo up tight against the beams so that the air could only get from side to side and could not get forward or aft your beams? A. Yes, sir.

Q. What would happen to the air coming in at the top of your ventilators, it would all be forced out in the between-deck space, would it not?

A. This is the lower hold that you are speaking about?

Q. Assume that the cargo is loaded tight up to the top of the ventilators in the lower hold—

A. Yes, sir.

Q. And you have turned your ventilators to get the wind. A. Yes, sir.

Q. Now, supposing you have done that. This cargo is tight up against the lower hold. Would that not force all your air out in the between-deck space? A. I don't see why it could not be so.

Q. It would come in between the sleeves?

A. We always trim the ventilators back to the wind.

Q. You mean both forward and aft?

(Deposition of S. N. Keame.)

A. Yes, sir, both forward and aft. We use our ventilators not to force the wind down, but as an uptake.

Q. As an uptake how does it get in to supply the vacuum created by the uptake, what you take out you have to get in; how does it get in?

A. I suppose it does get in at the same time. It is the heat we look after. All the ventilators on board ship are looked [175] upon as an uptake rather than a downtake.

Q. For the purpoose of taking any heat?

A. Yes, sir.

Q. What would be the objection to turning one of your ventilators towards the wind and the other one away. Why don't you do that? A. We tried that.

Q. What did you give it up for?

A. Our experience showed us the best plan.

Q. Do you get too much moisture in the other way?

A. No, sir.

Q. Why is it better?

A. The only answer I can give is we considered it the best plan to turn them from the wind; our experience has shown that.

Q. What does your experience show you?

A. We keep the holds cooler by leaving all ventilators back to the wind than if we turned one ventilator to the wind and the other away.

Q. Has that been known a great many years by ship men? A. It is accepted by us.

Q. It has been known for a great many years?

A. Yes, sir; of course, there is a difference of opin-

(Deposition of S. N. Keane.)

ion about it. Some men believe in trimming two of the ventilators—say there are six; some of them believe in trimming the two aft ventilators to the wind and the forward ones away from it.

Q. Is it not true that one of the objections to that is that if you have a very warm day and your ventilators are faced towards the wind a great deal of moisture is down in the hold?

A. That might be true.

Q. If you have them faced away it would be an outdraw without so much going in?

A. Yes, sir, as I said, our principle for it is our past experience.

Q. Are there any cargoes you carry that you shut up tight forward and don't use ventilators?

A. Cotton. [176]

Q. You don't use the ventilators at all?

A. We cover the ventilators up.

Q. You do not take the ventilators off?

A. No, sir, we never interfere with them except to cover them over.

Q. It does not need ventilation to keep it dry?

A. No, as long as the cotton comes in dry.

Q. Did you ever carry bone-meal?

A. I have no recollection.

Q. Did you ever carry any fertilizer of any kind?

A. I have no recollection of carrying any.

Redirect Examination.

Mr. CAMPBELL.—Q. In storing sack cargo against the beams as Mr. Denman has described to you has it been your experience that that shuts off

(Deposition of S. N. Keame.)

ventilation or will the cargo still be ventilated?

A. If it is that high up it shakes down quite a considerable bit; it always settles.

Q. When you say that we consider it best to keep the ventilators turned from the wind to whom do you refer by we? A. Principally our own ships.

Q. The Harrison Line?

A. The big fleet. Of course, we have a great deal of experience in this Calcutta trade, which I think is the greatest sweating cargoes that you can carry.

Recross-examination.

Mr. DENMAN.—Q. You say you have never carried bone-meal, or fertilizer?

A. I have no recollection.

Q. You don't know how it packs, or settles, or anything of that kind of your own knowledge?

A. No, sir.

Mr. CAMPBELL.—I will offer the drawing in evidence and ask that it be marked Claimant's Exhibit 1.

(The drawing is marked "Claimant's Exhibit 1.")

[177]

[Deposition of Norman Watkins, for Claimant.]

NORMAN WATKINS, called for the Claimant, sworn.

Mr. CAMPBELL.—Q. Where is your home, Mr. Watkins? A. Honolulu.

Q. Are you leaving for Honolulu this afternoon?

A. Yes, sir, at five o'clock to-day.

Q. What is your business?

A. Fertilizing manufacture business. I am gen-

(Deposition of Norman Watkins.)
eral superintendent of the Honolulu Fertilizing Company.

Q. Where do they do business?

A. Honolulu and San Francisco. At the present time I am acting manager of the Honolulu end of the business.

Q. How long have you been engaged in that business? A. Nearly 15 years.

Q. At what place? A. Honolulu.

Q. Have you ever been connected with any stevedoring concern in Honolulu?

A. Yes, sir, I have been connected with McNab, Hamilton & Kearny Company, Limited, for the past 12 or 13 years.

Q. Now, have you ever handled a fertilizer called bone-meal? A. Yes, sir.

Q. How many years have you handled it?

A. Ever since I have been in the business, nearly 15 years.

Q. How many tons do you suppose you have handled?

A. I would say roughly in round figures 10,000 tons.

Q. Have you ever seen bone-meal discharged from ships carrying it into Honolulu Harbor?

A. Very frequently.

Q. Have you ever had any experience with bone-meal heating? A. Never.

Q. Have you ever seen a ship loaded, or any quantity coming out of a ship discharged in Honolulu Harbor in a heated coondition? A. No, sir, never.

(Deposition of Norman Watkins.)

Q. Do you know whether or not the Pacific Mail ever carried any bone-meal to Honolulu?

A. Very frequently. [178]

Cross-examination.

Mr. DENMAN.—Q. What is the element in bone-meal that makes it valuable as a fertilizer.

A. Phosphoric acid and nitrogen.

Q. How about the ammonia?

A. We speak of ammonia and nitrogen in the same terms, as one and the same thing.

Q. What percentage of ammonia or nitrogen will the bone-meal give out?

A. Five per cent ammonia.

Q. How is that eliminated; how do you get it out?

A. How is it gotten out?

Q. Yes.

A. Why, in the process of manufacture of bone-meal some manufacturers extract it.

Q. I mean how it is gotten out for the purpose of fertilization?

A. It is not gotten out, it is put in and ground as bone-meal.

Q. How is the ammonia gotten out in the grinding process? A. By decomposition.

Q. It is animal fertilizer? A. Yes, sir.

Q. This decomposition gives off the ammonia and that gives nitrogen to the roots?

A. Ammonia and nitrogen may be termed as the same thing.

Q. The process is decomposition in the ground un-

(Deposition of Norman Watkins.)

der the influence of heat and moisture?

A. Yes, sir, exactly.

Q. That nitrogen is eliminated and it reaches the roots that you desire to fertilize?

A. Yes, sir, exactly.

Q. Now, when you say that you never knew of bone-meal heating have you ever been engaged in the manufacture of bone-meal?

A. Not to any great extent. We grind about 100 tons of bone-meal a year in Honolulu.

Q. Have you ever piled it in great piles of three of four thousand boxes just after manufacture?

A. Not to the extent of three or four thousand boxes. We frequently pile it freshly ground from [179] 800 to 1000 boxes. We generally grind bone-meal twice a year; about 50 tons every six months.

Q. Have you ever taken the interior temperature of those piles? A. Never.

Q. Where did you pile that, out of doors or in-doors? A. Indoors.

Q. In Honolulu? A. In Honolulu.

Q. Is it exposed to the air, or is it enclosed in houses?

A. Exposed to the air more or less. All our ware-houses are closed at night.

Q. You have not got any with open sides such as those like sheds? A. No, sir.

Q. You say you have never taken any temperature of the holds of a ship with bone-meal on board of them? A. No, sir.

Q. All you can testify is when the bone-meal has

(Deposition of Norman Watkins.)

been taken off at Honolulu it has not been warm at that time. That is the limit of your experience?

A. In my experience I have never seen any heated bone-meal.

Q. Your experience is confined in taking it off at the end of the voyage in Honolulu, is it not. You have never travelled with any? A. No, sir.

Q. All you san say is you have never seen any heated bone-meal come off of the ship at Honolulu. That is the limit of your experience?

A. That is exactly so.

Q. Did you ever have your bone-meal piled up long enough so that the ammonia affected the sacking in which it was contained?

A. There have been occasions when by means of a leaking roof that I can recall where we have had bone-meal wet, that is slightly wet and under those conditions I have noted that the sacks rotted very quickly.

Q. That must be by the moisture and heating combined to eliminate the ammonia and destroy the sacks?

A. It is decomposition; the same as a wet sack in time will rot. I presume the decomposition [180] of the bone ate that.

Q. Heat always causes decomposition?

A. To a certain extent, undoubtedly.

Q. That is, you can take manure and hatch eggs under those conditions?

A. That is a common practice with the Chinese in Manila to hatch ducks for them every day.

(Deposition of Norman Watkins.)

Q. Is not the chief value of the stable manure the ammonia you get from it?

A. That is the chief value, yes.

Redirect Examination.

Mr. CAMPBELL.—Q. Have you ever seen bone-meal delivered in ship's hold which gave evidence of having heated on the voyage? A. I have not.

Q. Have you had any quantity of bone-meal stowed in your warehouse at Honolulu?

A. We frequently have up to 500 tons on hand at one time.

Recross-examination.

Mr. DENMAN.—Q. Have you ever had it come out of ships where the sacks had rotted and you had to resack a large portion? A. No, sir.

Q. That would indicate there had been fermentation? A. I should say so.

Q. You always had it come there without such accident?

A. I never had any experience with damaged packages of bone-meal.

Mr. CAMPBELL.—Q. Have you imported it both from Europe and from the Orient? A. Yes, sir.

United States of America,
State and Northern District of California,
City and County of San Francisco,—ss.

I, Francis Krull, a United States Commissioner for the Northern District of California, do hereby certify that the reason stated for taking the foregoing depositions is that the testimony of the witnesses [181] S. N. Keame and Norman Watkins,

is material and necessary in the cause in the caption of the said depositions named, and that they are bound on a voyage to sea and will be more than one hundred miles from the place of trial at the time of trial.

I further, certify that on Tuesday, February 4th, 1913, I was attended by William Denman, Esq., of the firm of Denman & Arnold, proctor for the libelants, and by Ira A. Campbell, Esq., of the firm of Messrs. McCutchen, Olney & Willard, proctor for the claimant and that the witnesses were by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in said cause; that said depositions were, pursuant to the stipulation of the proctors for the respective parties hereto, taken in shorthand by Herbert Bennet, and afterwards reduced to typewriting; that the reading over and signing of said depositions of the witnesses was by the aforesaid stipulation expressly waived.

I further certify that I have retained the said depositions in my possession for the purpose of delivering the same with my own hand to the United States District Court for the Northern District of California, First Division, the Court for which the same were taken.

Accompanying said depositions and annexed thereto and forming a part thereof is "Claimant's Exhibit 1."

And I further certify that I am not of counsel nor attorney for any of the parties in said depositions and caption named, nor in any way interested in the event of the cause named in the said caption.

IN WITNESS WHEREOF, I have hereunto subscribed my hand at my office in the city and county of San Francisco, State of California, this 3 day of Mch. 1913.

[Seal] FRANCIS KRULL,

U. S. Commissioner for the Northern District of California, at San Francisco.

[Endorsed]: Filed Mch. 3, 1913. W. B. Maling, Clerk. By Francis Krull, Deputy Clerk. [182]

In the District Court of the United States, in and for the Northern District of California, First Division.

THE AMERICAN IMPORT COMPANY, a Corporation et al.,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," Her Engines, etc.,

Respondent.

(Deposition of William Baird, Taken on Behalf of Respondent.)

BE IT REMEMBERED that on Wednesday, April 15th, 1914, pursuant to stipulation of counsel hereunto annexed, at the office of Messrs. McCutchen, Olney & Willard, in the Merchants Exchange Building, in the city and county of San Francisco, State of California, personally appeared before me, Francis Krull, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., William Baird, a

witness produced on behalf of the respondent.

William Denman, Esq., appeared as proctor for the libelants, and Ira A. Campbell, Esq., appeared as proctor for the respondent, and the said witness having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid, did thereupon depose and say as is hereinafter set forth.

(It is hereby stipulated and agreed by and between the proctors for the respective parties, that the deposition of William Baird may be taken *de bene esse* on behalf of the respondent, at the office of Messrs. McCutchen, Olney & Willard, in the city and county of San Francisco, State of California, on Wednesday, April 15th, 1914, before Francis Krull, a United States Commissioner for the Northern District of California, and in shorthand [183] by Herbert Bennett.

(It is further stipulated that the deposition, when written out, may be read in evidence by either party on the trial of the cause; that all questions as to the notice of the time and place of taking the same are waived, and that all objections as to the form of the questions are waived unless objected to at the time of taking said deposition, and that all objections as to materiality and competency of the testimony are reserved to all parties.

(It is further stipulated that the reading over of the testimony to the witness and the signing thereof is hereby expressly waived.)

[Deposition of William Baird, for Respondent.]

WILLIAM BAIRD, called for the Respondent, sworn.

By Mr. CAMPBELL.—Q. What is your name, Captain? A. William Baird.

Q. How old are you? A. 38.

Q. How long have you been going to sea?

A. Since I was 16; that is 22 years.

Q. How long have you held master's papers?

A. Since I was 24; that is 14 years.

Q. What class of papers do you hold?

A. An ordinary master's certificate.

Q. British?

A. Oh, yes, do you want the number of it?

Q. No. Are you master of any vessel now?

A. Of the "Crown of Toledo."

Q. When is she to leave here? A. To-night.

Q. Where is she bound for?

A. London, via Pisagreo, Chili.

Q. Before you became master, were you ever an officer, chief officer?

A. Yes, sir, I was chief officer in that company for 10 years.

Q. How long have you been master for this company? [184]

A. The first time I was master was about 8 years ago, that is the beginning of it.

Q. What company owns your ship?

A. The Crown Steamship Company, of Glasgow.

Q. How many ships do they operate?

A. 9, but they are amalgamated with other com-

(Deposition of William Baird.)

panies, you know.

Q. What is the size of your vessel?

A. She carries 10,000 tons.

Q. What is her length? A. 475 feet.

Q. And her beam?

A. The beam of the ship is 58 feet.

Q. What trades have you sailed in, as an officer of vessels, both as master and chief officer?

A. With this company we sailed in the West Indies trade, from Glasgow to the West Indies, carrying general cargo from Glasgow to the West Indies, and sugar and cocoa and general cargo home again.

Q. How long were you engaged in that trade?

A. About 9 years.

Q. Can you tell me the size of your deck, No. 1, between-deck hold? A. Yes, sir.

Q. The size of that hold in the "Crown of Toledo"?

A. Yes, sir.

Q. What is it?

A. The length of that hold is 78 feet, and the breadth of it at the forward end is 36 feet, and at the aft end is 49 feet.

Q. The height?

A. The height is 9 foot 2 inches.

Q. Have you any veintilators in it?

A. 4 ventilators, 2 at each end.

Q. What is the diameter of the ventilator leading from the upper deck into the between-deck hold?

A. There are 2 that go through; I have 2 decks, the shelter deck and the between-deck.

Q. What is the first deck?

(Deposition of William Baird.)

A. A 2–foot ventilator and an inside pipe again 16 inches.

Q. Where does the inside pipe lead to?

A. Into the between-decks.

Q. What do you call the cargo compartment immediately beneath the [185] shelter deck?

A. Between-decks, and then my lower hold beneath the between-decks.

Q. What is the first hold?

A. Shelter deck space.

Q. Are those ventilators all of the same size?

A. There is a tube into each of them, decreasing in diameter as they go down.

Q. The tube leading from the upper deck, or shetter deck, into the lower deck space—

A. (Intg.) 16 inches in diameter.

Q. Let me finish my question. The tube leading from your upper deck into the shelter deck space is two feet in diameter? A. Yes, sir.

Q. What is the diameter of the tube leading from your shelter deck space into your between-decks?

A. 16 inches.

Q. And what is the diameter of the tube leading from your between-decks into your lower hold?

A. 10 inches.

Q. Have you ever, in your experience, carried any bone-meal? A. Yes, sir.

Q. Where?

A. I carried it from Glasgow and London to the West Indies, to Mantresh, for fertilizing purposes; to various places in the West Indies islands.

(Deposition of William Baird.)

Q. In what quantities have you carried it?

A. About 300-ton blocks.

Q. How often did you cary it in that trade?

A. Well, I carried it at least 3 times in a year, very often; but the blocks sometimes were larger and sometimes smaller in that trade; the state would order a larger quantity of fertilizer and bone-meal; they would order about 2000-ton shipment, not of bone-meal, alone, but of all kinds of fertilizer.

Q. Over what space of time on that run have you carried bone-meal to the West Indies islands?

A. During all the time that I have been in the company, on and off at various times. [186]

Q. In all that time, have you ever known bone-meal to heat?

A. Never heard about it; never dreamt about it.

Mr. CAMPBELL.—That is all.

Cross-examination.

Mr. DENMAN.—Q. Do you know what bone-meal is?

A. Yes, sir, it is a fertilizer, it is the stuff ground down, old bones for fertilizing purposes; it comes from the slaughter-houses, as a rule, doesn't it?

Q. That is an animal fertilizer?

A. Yes, sir, an animal fertilizer.

Q. Did you ever stow any of it on board when it had been wet, to your knowledge?

A. Not to my knowledge, no; we do not usually stow any cargo when it is wet like that; we might take it out when it is wet, but never stow it when it is wet.

(Deposition of William Baird.)

Q. Have you any recollection of taking any bone-meal out when it was wet?

A. No, sir, I have no recollection.

Q. Do you know, or do you not know whether bone-meal will heat when it is wet. You know the chemical properties of getting the fertilizer out of it?

A. No, sir, I know nothing about it.

Q. What is the purpose, Captain, of these separate tubes that run down?

A. For ventilation purposes, so as to allow the other holds to get ventilation.

Q. Suppose you have this situation: Suppose you have a lower hold that is warmed by your furnaces, and interior heat of your ship, and you have, in your shelter deck, as something you want to keep cool, do these tubes have the effect of taking the warm air from the lower hold clean through to the outside, so that it will not mix with the other air?

A. Yes, sir, the interior of the ship does not get heated at all by any furnaces, everything like that is away from the lower space. It would only be the sort of sweat from cargo in the lower hold, that all goes away clear. [187]

Q. It is your idea with regard to that to get that clear through to the upper deck, without having it go into the interior hold? A. Yes, sir.

Q. That is the purpose of these separate tubes, so the sweat will go right out from the lower hold and not permeate the other hold?

A. Yes, sir, if these tubes were not there, it is quite possible the stevedores might put a big case of

(Deposition of William Baird.)

cargo over the hole altogether, and have no ventilation of any description.

Q. Your idea, then, is to have a different ventilator for each hold? A. Yes, sir.

Q. To keep the ventilation from one hold going to the other?

A. Yes, sir, approximately so, it goes right straight up. The idea of tubes, so far as we know, is to make sure the ventilation gets into the hold.

Q. And gets out also?

A. Yes, sir, and gets out. Hot air will arise.

Q. Have you ever carried Apollinaris?

A. Yes, sir, it is mineral water.

Q. Yes, charged mineral water.

A. In bottles?

Q. Yes, in bottles. A. Yes, sir.

Q. Would you stow that in with fertilizer? Would you call that proper stowage to mix it with fertilizer?

A. I would not mix it with fertilizer; I could not see that it would do any harm; if I had a block of fertilizer here and a block of mineral water in some hatch, provided there was no smell from the fertilizer, I could not for the life of me see it would hurt, just as long as it did not smell; I would not like to send cargo ashore smelling.

Q. You do not think it would do any damage?

A. None whatever.

Q. Have you ever had any advice as to the character of different kinds of bone-meal, or have you

only carried one kind?

A. I might have carried half a dozen different kinds, but as far [188] as I knew, they were all bone-meal to me.

Q. What is your practice with regard to the stowage of Apollinaris? Where do you carry it on your ship, or mineral waters of that character?

A. It altogether depends on how much the shipment is. Supposing it was a few cases of mineral water, it would be stowed anywhere.

Q. Suppose you had a large shipment?

A. If we had a large shipment, then we would stow it as far as possible to be handy for the port it was going to; these general cargo steamers nowadays, you have got to consider that; in an ordinary steamer nowadays, mineral water is put anywhere. I would not stow it right up against the boilers, if I had boilers; these ships are all insulated against that nowadays. There is no heat in your hold.

Q. Won't your temperature run up as high as 90 degrees in the hold at times?

A. I never found it there, I would not like to think it was; I would be looking for a fire, and I would be getting to feel very worried if I found it rising at all.

Q. Suppose you found it rising up as high as 90 degrees?

A. I would look to see if there was any fire; I don't expect anything like that down in the hold.

Q. Would you regard such hold as being seaworthy with regard to carrying mineral water?

(Deposition of William Baird.)

A. I do not know what effect it would have. I never found a hold with a temperature of 90 degrees. I never take a thermometer down there to see, but I would know if the temperature was 90 degrees down there.

Q. You do not take the temperature of the hold?

A. Occasionally, we only take the temperature if we carry coal in a ship.

Q. You never take any temperature of these bone-meal cargoes? A. No, sir.

Q. Bone-meal and this stuff?

A. No, sir. I have been superintending **[189]** as chief officer when cargoes were being discharged and the men handling the bags, if they found a bag was warm we would inquire about it.

Q. You would not know whether it was warm and had been cooled off?

A. No, sir, we would not know that.

Q. How is that on a West Indies voyage, do you have a great deal of sweat? A. Yes, sir.

Q. You do?

A. Our ships are protected against sweat, so far as possible; the sugar cargo sweats.

Q. How do you handle your sugar cargo? Do you put it in a forced draft ventilation?

A. The ordinary ventilators; the only time it sweated, as we speak about sweat, is going from hot into cold, around the hatch coamings we find sweat, that is because going from the tropical heat and approaching the cold in England in the winter time, you require all the ventilation you can get, or other-

wise your upper decks and coamings would be wet. We do not consider that from heating, that is ordinary vapor coming up from temperature, the hot air in the hold; the hot air from the tropics bottled up in the hold.

Q. In your general cargo you have that same trouble from sweat? A. Just the same.

Mr. DENMAN.—That is all.

Redirect Examination.

Mr. CAMPBELL.—Q. How old is your vessel?

A. This vessel?

Q. Yes. A. 2 years.

Q. How does she compare with the modern cargo-carrying vessels of British construction?

A. She is supposed to be the last thing, two years ago.

Q. What is your judgment as to whether or not your shelter deck space in No. 1 hold is or is not a suitable place to carry any [190] cargo which would require the maintenance of even temperature and cool temperature?

A. It is impossible to put it anywhere that would be so suitable as No. 1 hold, or No. 1 between-deck; but still I contend that there should be no difference anywhere in the ship; unless you have some old ship that had a boiler stuck in the hold, one of the holds.

Mr. CAMPBELL.—That is all.

Recross-examination.

Mr. DENMAN.—Q. You say if you reached a temperature of 90 degrees in your hold you would be

(Deposition of William Baird.)

worried, you would be looking for fire?

A. Yes, sir.

Q. If you got up to 100, you would be still more worried? A. Yes, sir.

Q. And if you got up to 110, you would be some worried, indeed?

A. I would not want to find it.

Q. You think at 90 degrees there would be a fire, you would still think more so at 100?

A. I would not expect to find any hold much different in the temperature than the outside air was.

Q. The reason that you put your mineral waters carbonated up in the between-deck space is because of the fact it is as cool a stowage as you could find, is it not?

A. That would be one reason, and if it was a large block, you would have to consider where you could put them the handiest; if there was a large block of mineral water, you could cut off the space in No. 1 and put them there. Really, that would be the best place on a long voyage; a ship traveling from the tropics to Europe, she has got to go through the tropics twice, coming down and going up, and No. 1 would be the most suitable place for that kind of cargo. Of course, we know mineral water will break themselves, without any assistance from anybody else.

Q. You have seen a bottle pop out in the sun?

A. Yes, sir.

Mr. DENMAN.—That is all. **[191]**

United States of America,
State and Northern District of California,
City and County of San Francisco.—ss.

I, Francis Krull, a United States Commissioner for the Northern District of California, do hereby certify that the reason stated for taking the foregoing deposition is that the testimony of the witness, William Baird is material and necessary in the cause in the caption of the said deposition named, and that he is about to go away, and will be more than one hundred miles from the place of trial at the time of trial.

I further certify that on Wednesday, April 15th, 1914, at 4:00 P. M. I was attended by William Denman, Esq., proctor for the libelants, and by Ira A. Campbell, Esq., proctor for the respondent, and by the witness who was of sound mind and lawful age, and that the witness was by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in said cause; that said deposition was, pursuant to the stipulation of the proctors for the respective parties hereto, taken in shorthand by Herbert Bennett, and afterwards reduced to typewriting; that the reading over and signing of said deposition of the witness was by the aforesaid stipulation expressly waived.

I further certify that I have retained the said deposition in my possession for the purpose of delivering the same with my own hand to the United States District Court for the Northern District of California, the court for which the same was taken.

And I further certify that I am not of counsel nor attorney for any of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in the said caption. **[192]**

IN WITNESS WHEREOF, I have hereunto subscribed my hand at my office in the city and county of San Francisco, State of California, this —— day of April, 1914.

FRANCIS KRULL,
U. S. Commissioner, Northern District of California, at San Francisco.

[Endorsed]: Filed April 16, 1914. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. **[193]**

In the District Court of the United States, in and for the Northern District of California, First Division.

IN ADMIRALTY—No. 15,156.

THE AMERICAN IMPORT COMPANY, a Corporation, et al.,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," etc.,

Respondent.

(Opinion and Order Fixing Liability on the "Skipton Castle," etc.)

WILLIAM DENMAN, Esq., Proctor for Libelant.

IRA A. CAMPBELL, Esq., and McCUTCHEN, OLNEY & WILLARD, Proctors for Claimant.

In December, 1910, libelants shipped on board the British steamer "Skipton Castle," then lying in the port of Antwerp, Belgium, certain merchandise to be carried from said port to San Francisco. This merchandise, consisting for the most part of mineral water, baskets and enamel ware, was stowed in the No. 1 between-decks. In the No. 1 hold immediately below was stowed a quantity of bone-meal. The hatch between the No. 1 hold and No. 1 between-decks was not entirely closed, but was left with spaces between the *board* so that the air from the hold could rise freely into the between-decks. The merchandise, when delivered in San Francisco, was badly damaged, the damage, speaking generally, consisting of the bursting of the bottles containing the mineral water; the molding and rotting of the baskets, and rusting of the enamel ware.

The bills of lading provide, among other things, that the ship "should not be liable for loss or damage occasioned by the act of God * * * sweating * * * decay, or the indirect causes thereof, **[194]** contact with, or smell or evaporation from, other goods * * * injury to wrappers, however caused * * * heat * * * at any time or in

any place * * * or any other perils of the sea; the negligence, default or error in judgment of the master, pilot, mariners, engineers, stevedores or other persons employed in or about the ship."

It is claimed that whatever injury was suffered was the result of some one of the enumerated exemptions.

The loading of the vessel at Antwerp was concluded on December 18th, and that day she left Antwerp and proceeded to Hull, where she arrived on the morning of December 19th. On the morning of December 21st she left Hull for her destination on this coast via Las Palmas. The loading of libelants' merchandise was completed on December 17th, so that on December 22d, when the temperature of the holds was first taken, as disclosed by the log, this merchandise, allowing for the time required to load and stow it, was on board something over five days. On December 22d, the mean temperature of the No. 1 hold, was ascertained to be 101, while the temperature of the air ranged during the day from 52 to 53 and the mean temperature of the other holds was as follows:

No. 2, 83; No. 3, 82; No. 4, 83; No. 5, 87; poop, 84. On December 23d the mean temperature of No. 1 hold was 100, the temperature of the air ranging during the day from 53 to 57, and that of the other holds ranging from 80 to 86. So through succeeding days the temperature of No. 1 hold was much higher than that of any of the others, and from 30 to 50 degrees higher than that of the air. On December 29th

the "Skipton Castle" arrived at Las Palmas, the temperature of the holds on that day apparently not having been taken. But on December 30th, while still at Las Palmas, the temperature of No. 1 hold was ascertained to be 110; **[195]** of No. 2, 85; of No. 3, 85; of No. 4, 82; and of No. 5, 90; while the highest temperature of the air during the day was 65. It was not until January 14th that the temperature of No. 1 hold became fairly uniform with that of the others. No. 1 hold, because of its location, should under normal conditions be, if not cooler than the others, at least as cool as any of them. So that the high temperature of this hold must be attributed to some cause existing therein, and it is not now disputed that it was due to the heating of the bone-meal which was there stowed. It is in evidence that bone-meal does not ordinarily heat, and there was therefore no reason to anticipate that it would heat upon this occasion. There is no doubt, however, that it did heat, and that the heat generated by it had free access through the partly open hatch into No. 1 between-decks where libelants' merchandise was stowed. Everything indicates that the damage to this merchandise is to be attributed to the heat thus occasioned. The question then for determination is, whether or no, under the circumstances, the ship is excusable, either under the Harter Act, or because of the exemptions contained in the bill of lading. Section 1 of the Harter Act provides that it shall not be lawful to insert in a bill of lading any clause relieving from liability for loss or damage arising from

negligence, fault, or failure in proper loading, stowage, custody, care, or proper delivery of any merchandise, and that any words or clauses of such import shall be null and void.

Section 2 provides that it shall not be lawful to insert in any bill of lading any agreement by which the obligation of the owner of a vessel to exercise due diligence to properly equip, man, provision, and outfit such [196] vessel, and to make such vessel seaworthy and capable of performing her intended voyage, or whereby the obligations of the master, officers, agents, or servants to carefully handle and stow her cargo and to care for and properly deliver the same, shall in any wise be lessened, weakened, or avoided.

Section 3 provides that if the owner of any vessel shall exercise due diligence to make said vessel in all respects seaworthy and properly manned, equipped and supplied, neither the vessel, her owner or owners, agents, or charterers shall be held responsible for damage or loss resulting from faults or errors in navigation or in the management of such vessel, nor shall they be liable for losses arising * * * from the inherent defect, quality or vice of the thing carried, or from insufficiency of package, or resulting from any act or omission of the shipper or owner of the goods.

The provisions of the bill of lading must be read in connection with the sections of the Harter Act set out above and none of the exemptions apply, if the shipper prove that the damage arises from negligence in proper loading, stowage, custody or care of

the goods, and no exemption can do away with the obligation of the master properly to care for the cargo, while it is in his charge. It is true that when the damage is shown to result from some of the exempted causes, the burden is upon the shipper, to show negligence on the part of the ship. It is contended here that as to the No. 1 between-decks, the vessel was not seaworthy for the carriage of this cargo, because of the existence of all the elements in No. 1 hold to produce heat, even though such heating was not to be anticipated, and because free access of [197] such heat to No. 1 between-decks was permitted by leaving the hatch uncovered, and because the cargo in question was peculiarly susceptible to be damaged by heat. This is an interesting question, but one which I do not find necessary *to determined.* The merchandise in question, particularly the mineral water, was stowed in No. 1 between-decks because every one recognized the necessity of having it stowed where it might be kept as cool as possible and not be subjected to sudden and violent changes of temperature. Yet within five days after it was so stowed it was ascertained that the temperature of the hold immediately beneath it was nearly 50 degrees hotter than the temperature of the air, and nearly twenty degrees hotter than that of the other holds although it should ordinarily be cooler than any of them. This condition continued day after day, the officers knowing that the hot air of No. 1 hold had free access to No. 1 between-decks, and that the mineral water therein stowed was peculiarly susceptible to heat, and had been stowed there, according to

their own testimony, in order that it might be kept as cool as possible. Nothing was done to relieve the situation. Although the master testified that it would be absolutely impossible, without jettisoning the cargo, to get into any of the lower holds for the purpose of restowing cargo, and that when he found there was a difference of 25 degrees in temperature there was no place to take the cargo out, still it does not appear that it would have been difficult, certainly not impossible, during the fine weather then experienced, and particularly while lying at Las Palmas, to move or raise such portion of the cargo as was on the square of the hatch, and to close the hatch between No. 1 between-decks and No. 1 hold, so that the heated air of the latter might rise through the [198] ventilator without reaching the between-decks. If any of the merchandise in question was then found to be suffering injury because of heat, or because of moisture occasioned by bursting bottles, such portion might have been cared for by drying and airing it. The hatchway between No. 1 between-decks and No. 1 hold was twenty-four feet long and sixteen feet wide, and the depth of No. 1 between-decks was between seven and eight feet. The cargo stowed on this partly covered hatch consisted for the most part of baskets. It does not seem that any insuperable difficulty should attend the raising of such portion of a cargo of basket ware as covered a hatch twenty-four by sixteen feet to a depth of not exceeding eight feet, or that it would be at all necessary to jettison the same, and I cannot escape the conclusion

that the failure to make any effort whatsoever to relieve the conditions then known to exist was such negligence in the care of the cargo as will render the ship liable for the damage occasioned thereby. It is not impossible that the ship may be liable for other reasons suggested by counsel for libelants, but I am satisfied that she is liable for the reasons set forth.

A decree will therefore be entered fixing such liability, and the cause referred to the commissioner to ascertain and report the damage.

April 3d, 1915.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Apr. 3, 1915. W. B. Maling, Clerk. By Lyle S. Morris, Deputy Clerk. **[199]**

In the District Court of the United States, in and for the Northern District of California, First Division.

IN ADMIRALTY—No. 15,156.

THE AMERICAN IMPORT COMPANY, a Corporation et al.,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," etc.,

Respondent.

Stipulation Waiving Reference [to United States Commissioner].

WHEREAS on April 3, 1915, the Court filed, in the above action, an opinion in which the steamer

"Skipton Castle," was held liable for certain cargo damage occurring on said steamer; and

WHEREAS by order of said Court, the cause was referred to the United States Commissioner to ascertain and report the damages sustained by the libelants; and

WHEREAS the respective parties hereto have agreed upon the damages sustained by the libelants, exclusive of interest;

NOW, THEREFORE, it is stipulated and agreed, by and between the parties hereto, that said reference to the United States Commissioner be waived.

Dated October 15, 1915.

DENMAN & ARNOLD,
Proctors for Libelants.

IRA A. CAMPBELL,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Respondent.

[Endorsed]: Filed, Oct. 20, 1915. W. B. Maling, Clerk. By T. L. Baldwin, Deputy Clerk. [200]

In the District Court of the United States, in and for the Northern District of California, First Division.

IN ADMIRALTY—No. 15,156.

THE AMERICAN IMPORT COMPANY, a Corporation et al.,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," etc.,

Respondent.

Stipulation (as to Damages Sustained).

IT IS HEREBY STIPULATED AND AGREED by and between the respective parties hereto that the damages suffered by the libelants in the above-entitled action were and are the following amounts set opposite their respective names:

The American Import Company, a corporation $1,712.60
Tillman & Bendel, a corporation.....$ 184.75
James de Fremery & Co., a copartnership.$ 575.
The Appolonaris Co., Ltd.....$1,208.25

DENMAN & ARNOLD,
Proctors for Libelants.
IRA A. CAMPBELL,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Claimant and Respondent.

[Endorsed]: Filed, Oct. 20, 1915. W. B. Maling, Clerk. By T. L. Baldwin, Deputy Clerk. **[201]**

In the District Court of the United States, in and for the Northern District of California, First Division.

IN ADMIRALTY—No. 15,156.

THE AMERICAN IMPORT COMPANY, a Corporation et al.,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," etc.,

Respondent.

Stipulation (as to Interest on Stipulated Damages).

IT IS HEREBY STIPULATED AND AGREED, by and between the respective parties hereto, that the sums totaling $3,680.60, as the damages suffered by the libelants and heretofore agreed to, do not include interest, and the respondent hereby reserves the right to make objection to interest being allowed by the Court.

Dated October 15, 1915.

DENMAN & ARNOLD,
Proctors for Libelants.
IRA A. CAMPBELL,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Respondent.

[Endorsed]: Filed Oct. 20, 1915. W. B. Maling, Clerk. By T. L. Baldwin, Deputy Clerk. [202]

In the District Court of the United States, in and for the Northern District of California.

No. 15,156.

THE AMERICAN IMPORT COMPANY, a Corporation, TILLMAN & BENDEL, a Corporation, JAMES L. DE FREMERY and HENRI M. SUERMONDT, Copartners Doing Business Under the Firm Name of JAS. DE FREMERY & CO., THE APOLLINARIS CO., LTD., a Corporation,
Libelants,

vs.

The British Steamer "SKIPTON CASTLE," Her Engines, Tackle, Apparel and Furniture and

All Persons Intervening for Their Interest Therein,

Respondents.

Final Decree.

Issue being joined herein, and this cause coming on duly to be heard upon the pleadings and proofs adduced by the respective parties, the libelants, to wit, the American Import Company, a corporation, Tillman & Bendel, a corporation, James L. De Fremery and Henri M. Suermondt, copartners doing business under the firm name of Jas. De Fremery & Co., and the Apollinaris Co., Ltd., a corporation, all being represented by their proctor, William Denman, Esq., and the claimant, Lancashire Shipping Company, Ltd., a corporation, being represented by its proctor Ira A. Campbell, Esq.:

And an order of this Court having been thereafter entered herein, whereby, among other things, it was adjudged that the respondent, the British steamer "Skipton Castle," was liable to the [203] libelants for the damages occasioned by reason of the matters and things in its libel set forth; and the matter having been referred to the United States Commissioner of this court to ascertain and report the said damage;

And the parties hereto having waived said reference to the United States Commissioner, and having agreed upon the damages, exclusive of interest, sustained by each libelant; and said damages agreed upon, together with interest at the rate of six (6) per cent per annum from May 1, 1911, to October 16, 1915, totaling:

American Import Company.....$2,171.01
Tillman & Bendel 234.20
Jas. de Fremery & Co..... 728.91
Appolinaris Company, Ltd..... 1,531.45

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the American Import Company, a corporation, recover against the British steamer "Skipton Castle," her engines, tackle, apparel and furniture, the sum of Twenty-one Hundred and Seventy-one and 01/100 Dollars, ($2,171.01), together with costs to be taxed; and that Tillmann & Bendel, a corporation, recover against the British steamer "Skipton Castle," her engines, tackle, apparel and furniture, the sum of Two Hundred and thirty-four and 20/100 Dollars ($234.20), together with costs to be taxed; and that James de Fremery and Henri M. Suermondt, copartners doing business under the firm name of Jas. de Fremery & Co., recover against the British steamer "Skipton Castle," her engines, tackle, apparel and furniture, the sum of Seven Hundred and Twenty-eight and 91/100 Dollars ($728.91), together with costs to be taxed; and that Apollinaris Company, Ltd., a corporation, recover against the British steamer "Skipton Castle," her engines, tackle, apparel and [204] furniture, the sum of Fifteen Hundred and Thirty-one and 66/100 Dollars, ($1,531.66), together with costs to be taxed; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, unless an appeal be taken from this decree within the time limited by the rules and practice of this court, the stipulators for costs

and value on the part of the claimant of said British steamer "Skipton Castle," shall cause the engagements of their said stipulations to be performed, or show cause within four (4) days after the expiration of the time to appeal, or on the first day of jurisdiction thereafter, why execution should not issue against their goods, chattels and lands for the amounts set forth in this decree.

Dated October 25, 1915.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Oct. 25, 1915. W. B. Maling, Clerk. By T. L. Baldwin, Deputy Clerk.

Entered in Vol. 6, Judg. and Decrees at Page 368. [205]

In the District Court of the United States, in and for the Northern District of California.

No. 15,156.

THE AMERICAN IMPORT COMPANY, a Corporation, TILLMAN & BENDEL, a Corporation, JAMES L. DE FREMERY and HENRI M. SUERMONDT, Copartners Doing Business Under the Firm Name of JAS. DE FREMERY & CO., THE APOLLINARIS CO., LTD., a Corporation,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," Her Engines, Tackle, Apparel and Furniture, and

All Persons Intervening for Their Interest Therein,

Respondents,

LANCASHIRE SHIPPING COMPANY, LIMITED, a Corporation,

Claimant.

Notice of Appeal.

To the Clerk of the Above-entitled Court, and to the Libelants in Said Cause, and to Messrs. William S. Denman and Denman & Arnold, Their Proctors:

You will please take notice that Lancashire Shipping Company, Limited, a corporation, claimant and respondent herein, hereby appeals from the final decree made and entered herein in said cause on the 25th day of October, 1915, to the next United States Circuit Court of Appeals for the Ninth Circuit, in and for said Circuit, at the city and county of San Francisco, State of California.

Dated December 28th, 1915.

IRA A. CAMPBELL,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Claimant and Respondents. [206]

Service of the within Notice of Appeal and receipt of a copy is hereby admitted this 28th day of December, 1915.

DENMAN & ARNOLD,
Proctors for Libelants.

[Endorsed]: Filed Dec. 29, 1915. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [207]

In the District Court of the United States, in and for the Northern District of California, First Division.

IN ADMIRALTY—No. 15,156.

THE AMERICAN IMPORT COMPANY, a Corporation, TILLMAN & BENDEL, a Corporation, JAMES L. DE FREMERY and HENRI M. SUERMONDT, Copartners Doing Business Under the Firm Name of JAS. DE FREMERY & CO., THE APOLLINARIS CO., LTD., a Corporation,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," Her Engines, Tackle, Apparel and Furniture, and All Persons Intervening for Their Interest Therein,

Respondents,

LANCASHIRE SHIPPING COMPANY, LIMITED, a Corporation,

Claimant.

Assignment of Errors.

Comes now Lancashire Shipping Company, a corporation, claimant and appellant herein, and says:

That in the record, opinion, decision and final decree in said cause there is manifest and material error, and said appellant now makes, files and presents the following assignment of errors on which it relies, to wit:

I.

The District Court erred in entering the decree herein on date the 25th day of October, 1915, in favor of libelants and against said claimant.

II.

The District Court erred in holding and deciding that libelants had proved any negligence on the part of the claimant in the loading, stowing, custody, or care of libelants' merchandise, or in holding and deciding that claimant was negligent in the loading, stowing, custody or care of libelants' merchandise. [208]

III.

The District Court erred in holding and deciding that libelants had sustained the burden of proof resting upon them when it affirmatively appears that the damages to the cargo were within the exceptions of the bill of lading under which said cargo was carried, to wit, decay, or the indirect causes thereof, contract with or smell or evaporation from other goods, including wrappers, however caused, heat, sweating, leakage, breakage and wastage.

IV.

The District Court erred in holding and deciding that the provisions of the bill of lading, which relieved the "Skipton Castle" from liability for loss or damage occasioned by decay, or the indirect causes thereof, contact with or smell or evaporation from other goods, including wrappers, however caused, heat, sweating, leakage, breakage and wastage, were not applicable to the case because as applied to the facts of the cause they are forbidden by Sections 1

and 2 of the Harter Act.

V.

The District Court erred in holding and deciding that during the voyage of the "Skipton Castle" it was practical and possible to remove the cargo stowed in the upper holds for the purpose of restowing the cargo in the lower holds and thereby attempt to dry and air the libelants' merchandise.

VI.

The District Court erred in holding and deciding that the heat generated by the bone-meal which was stowed in No. 1 hold had free access through the partly open hatch into No. 1 between-decks hold, where libelants' merchandise was stowed.

VII.

The District Court erred in holding and deciding that the failure to remove such portion of the cargo as was on the square of the hatch and to close the hatch between No. 1 between-decks and No. 1 [209] hold, so that the heated air of the latter might rise through the ventilator without reaching the between-decks, was such negligence in the care of the cargo as will render the ship liable for the damage suffered by libelants.

VIII.

The District Court erred in holding and deciding that claimant was guilty of negligence in failing to remove such portion of the cargo as was on the square of the hatch and to close the hatch between the No. 1 between-decks and No. 1 hold so that the heated air of the latter might rise through the ventilator without reaching the between-decks.

IX.

The District Court erred in holding and deciding that the failure to make any effort whasoever to relieve the condition of high temperature known to exist in No. 1 between-decks hold was such negligence in the care of the cargo there stowed as will render the ship liable for the damage suffered by libelants.

X.

The District Court erred in not holding and deciding that part of the damage to the cargo stowed in No. 1 between-decks hold had been sustained prior to the vessel's arrival at Las Palmas, and that the ship was not liable for such damage so sustained.

XI.

The District Court erred in not holding and deciding that the damages sustained by libelants were caused by the inherent defect, quality or vice of the bone-meal caried on board the "Skipton Castle" and that the claimant, under Section 3 of the Harter Act, was not therefore liable for such damages.

XII.

The District Court erred in not holding and deciding that [210] claimant had exercised due diligence to make the vessel in all respects seaworthy and that the failure to close the hatch separating the lower No. 1 hold and No. 1 between-decks was an error or fault in the management of the vessel for which the ship, under Section 3 of the Harter Act, was not liable.

In order that the foregoing assignment of errors may be and appear of record, said claimant and ap-

pellant files and presents the same and prays that such disposition be made thereof, and the whole of said cause, as in accordance with the law and statutes of the United States in such cases made and provided; and that said claimant and appellant prays a reversal of the decree herein, heretofore made and entered in the above cause appealed from, and that it may have such other and further relief as shall be meet and equitable.

IRA A. CAMPBELL,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Claimant and Appellant.

[Endorsed]: Filed Mar. 17, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [211]

In the District Court of the United States, in and for the Northern District of California, First Division.

IN ADMIRALTY—No. 15,156.

THE AMERICAN IMPORT COMPANY, a Corporation, TILLMAN & BENDELL, a Corporation, JAMES L. DE FREMERY and HENRI M. SUERMONDT, Copartners Doing Business Under the Firm Name of JAS. DE FREMERY & CO., THE APOLLINARIS CO., LTD., a Corporation,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," Her Engines, Tackle, Apparel and Furniture, and

All Persons Intervening for Their Interest Therein,

Respondents,

LANCASHIRE SHIPPING COMPANY, LIMITED, a Corporation,

Claimant.

Stipulation (and Order as to Original Exhibits for Use on Appeal).

IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto that all of the exhibits introduced in the depositions taken before the Commissioner in the above-entitled cause, and the exhibits introduced at the hearing before the above-entitled court, may be sent up to the United States Circuit Court of Appeals for the Ninth Circuit as original exhibits for the Apostles on Appeal and need not be printed in said Court of Appeals.

March 30, 1916.

It is so ordered.

M. T. DOOLING,
District Judge.

WILLIAM DENMAN,
DENMAN & ARNOLD,
Proctors for Libelants.

IRA A. CAMPBELL,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Claimant and Respondents.

[Endorsed]: Filed Mar. 31, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [212]

Certificate of Clerk, U. S. District Court, to Apostles on Appeal.

I, Walter B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 212 pages, numbered from 1 to 212, inclusive, contain a full, true and correct transcript of certain records and proceedings, in the case of The American Import Company, a Corporation, etc., vs. The British Steamer "Skipton Castle," etc., No. 15,156, as the same now remains on file and of record in the office of the clerk of said District Court; said transcript on appeal having been prepared pursuant to and in accordance with "Praecipe for Apostles on Appeal" (copy of which is embodied in this transcript), and the instructions of the attorneys for respondent and appellant herein. All exhibits introduced in this cause are transmitted herewith in their original form, under separate certificate.

I further certify that the cost for preparing and certifying the foregoing apostles on appeal is the sum of One Hundred Twenty-two Dollars and Twenty Cents ($122.20), and that the same has been paid to me by the attorneys for the appellants herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 31st day of March, A. D. 1916.

[Seal] W. B. MALING,
Clerk.
By C. W. Calbreath, Deputy Clerk.

[Ten-cent Internal Revenue Stamp. Canceled 3/31/16. C. W. C.] [213]

[Endorsed]: No. 2774. United States Circuit Court of Appeals for the Ninth Circuit. Lancashire Shipping Company, Limited, a Corporation, Claimant of the British Steamer "Skipton Castle," Her Engines, Tackle, Apparel and Furniture, and All Persons Intervening for Their Interest Therein, Appellant, vs. The American Import Company, a Corporation, Tillman & Bendell, a Corporation, James L. De Fremery and Henri M. Suermondt, Copartners Doing Business Under the Firm Name of Jas. de Fremery & Co., The Apollinaris Company, Limited, a Corporation, Appellees. Apostles on Appeal. Upon Appeal from the United States District Court for the Northern District of California, First Division.

Filed March 31, 1916.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

In the United States Circuit Court of Appeals for the Ninth Circuit.

No. 15,156.

THE AMERICAN IMPORT COMPANY, a Corporation, TILLMAN & BENDELL, a Corporation, JAMES L. DE FREMERY and HENRI M. SUERMONDT, Copartners Doing Business Under the Firm Name of JAS. DE FREMERY & CO., THE APOLLINARIS CO., LTD., a Corporation,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," Her Engines, Tackle, Apparel and Furniture, and All Persons Intervening for Their Interest Therein,

Respondents,

LANCASHIRE SHIPPING COMPANY, LIMITED, a Corporation,

Claimant.

Stipulation and Order Extending Time for Docketing Cause on Appeal [to February 28, 1916].

IT IS HEREBY STIPULATED AND AGREED by and between the respective parties hereto that the time for printing the record and filing and docketing this cause on appeal in the United States Circuit Court of Appeals for the Ninth Circuit may be, and the same is hereby, extended to and including the 28th day of February, 1916.

Dated San Francisco, California, January, 27, 1916.

WILLIAM DENMAN,
DENMAN & ARNOLD,
Proctors for Libelants.

IRA A. CAMPBELL,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Claimant and Respondents.

It is so ordered by the Court.

Dated January 27, 1916.

WM. W. MORROW,
Judge.

[Endorsed]: United States Circuit Court of Appeals for the Ninth Circuit. The American Import Company, a Corporation et al., Libelants, vs. The British Steamer "Skipton Castle," etc., Respondents. Lancashire Shipping Company, Limited, a Corporation, Claimant. Stipulation and Order Extending Time for Docketing Cause on Appeal. Filed Jan. 28, 1916. F. D. Monckton, Clerk.

In the United States Circuit Court of Appeals for the Ninth Circuit.

No. 15,156.

THE AMERICAN IMPORT COMPANY, a Corporation, TILLMAN & BENDELL, a Corporation, JAMES L. DE FREMERY and HENRI M. SUERMONDT, Copartners Doing Business Under the Firm Name of JAS. DE FREMERY & CO., THE APOLLINARIS CO., LTD., a Corporation,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," Her Engines, Tackle, Apparel and Furniture, and All Persons Intervening for Their Interest Therein,

Respondents,

LANCASHIRE SHIPPING COMPANY, LIMITED, a Corporation,

Claimant.

Stipulation and Order Extending Time for Docketing Cause on Appeal [to March 29, 1916].

IT IS HEREBY STIPULATED AND AGREED by and between the respective parties hereto that the time for printing the record and filing and docketing this cause on appeal in the United States Circuit Court of Appeals for the Ninth Circuit may be, and the same is hereby extended to and including the 29th day of March, 1916, it being understood and agreed that said Apostles will be filed in time for hearing at May term of above Court.

Dated San Francisco, California, February 26, 1916.

WILLIAM DENMAN,
DENMAN & ARNOLD,
Proctors for Libelants.

IRA A. CAMPBELL,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Claimant and Respondents.

It is so ordered by the Court.

Dated February 28, 1916.

WM. W. MORROW,
Judge.

[Endorsed]: In the Circuit Court of Appeals for the Ninth Circuit. The American Import Company, a Corporation et al., Libelants, vs. The British Steamer "Skipton Castle," etc., et al., Respondents. Lancashire Shipping Company, Ltd., a Corporation, Claimant. Stipulation and Order Extending Time for Docketing Cause on Appeal. Filed Feb. 28, 1916. F. D. Monckton, Clerk.

In the United States Circuit Court of Appeals for the Ninth Circuit.

THE AMERICAN IMPORT COMPANY, a Corporation, TILLMAN & BENDELL, a Corporation, JAMES L. DE FREMERY and HENRI M. SUERMONDT, Copartners Doing Business Under the Firm Name of JAS. DE FREMERY & CO., THE APOLLINARIS CO., LTD., a Corporation,

Libelants,

vs.

The British Steamer "SKIPTON CASTLE," Her Engines, Tackle, Apparel and Furniture, and All Persons Intervening for Their Interest Therein,

Respondents,

LANCASHIRE SHIPPING COMPANY, LIMITED, a Corporation,

Claimant.

Stipulation and Order Extending Time for Docketing Cause on Appeal [to March 31, 1916].

IT IS HEREBY STIPULATED AND AGREED by and between the respective parties hereto that the time for printing the record and filing and docketing this cause on appeal in the United States Circuit Court of Appeals for the Ninth Circuit may be, and the same is hereby extended to and including the 31st day of March, 1916.

Dated San Francisco, California, March 29, 1916.

WILLIAM DENMAN,
DENMAN & ARNOLD,
Proctors for Libelants.

IRA A. CAMPBELL,
McCUTCHEN, OLNEY & WILLARD,
Proctors for Claimant and Respondents.

IT IS SO ORDERED BY THE COURT.

WM. W. MORROW,
Judge.

Dated March 29, 1916.

[Endorsed]: In the United States Circuit Court for the Ninth Circuit. The American Import Company, a Corporation, et al., Libelants, vs. The British Steamer "Skipton Castle," etc., et al., Respondents. Lancashire Shipping Company, Limited, a Corporation, Claimant. Stipulation and Order Extending Time for Docketing Cause on Appeal. Filed Mar. 29, 1916. F. D. Monckton, Clerk.

No. 2774. United States Circuit Court of Appeals for the Ninth Circuit. Three Orders Under Rule 16 Enlarging Time to Mar. 31, 1916, to File Record Thereof and to Docket Case. Refiled Mar. 31, 1916. F. D. Monckton, Clerk.